

RESEARCH AND PROMOTION LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC AND FOREIGN
MARKETING AND PRODUCT PROMOTION

OF THE

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

THE RESEARCH AND PROMOTION PROPOSALS INTRODUCED IN THIS
CONGRESS

JULY 14, 1989

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RESEARCH AND PROMOTION LEGISLATION

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U.S. SENATE, SUBCOMMITTEE ON DOMESTIC AND FOREIGN
MARKETING AND PRODUCT PROMOTION OF THE COMMIT-
TEE ON AGRICULTURE, NUTRITION, AND FORESTRY,

Washington, DC.

The subcommittee met, pursuant to notice, at 10:20 a.m., in room SR-332, Russell Senate Office Building, Hon. David L. Boren (chairman of the subcommittee) presiding.

Present or submitting a statement: Senators Boren, Fowler, Baucus, Cochran, Bond, and Wilson.

STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM OKLAHOMA

Senator BOREN. I apologize for being so late in starting. We are going to try to move expeditiously.

I have called this hearing today to discuss the many generic research and promotion proposals that have been introduced in this Congress. Overall, I am certainly supportive of these efforts by agricultural producers to help themselves in their industries by promoting their products through advertising, consumer education, and continued research. These programs offer producers the opportunity to contribute directly to the expansion of their markets. I am especially supportive of consumer education efforts in a time when concerns over food safety is at an all-time high.

"Checkoff" programs are becoming increasingly popular in the agricultural sector. Although the first such generic promotion program was born over 50 years ago, it has been the 1980's that has witnessed a doubling of producers' contributions to generic advertising and research efforts.

Much debate has taken place in the effectiveness of such promotion programs. A recent USDA bulletin points to a pair of studies which concluded that generic advertising programs for cheese and citrus products had positive impacts on sales.

To date in this Congress, four bills have been introduced in the Senate to establish new national programs, and three bills have been offered to make changes in existing ones.

We have invited Kenneth Clayton from the Agricultural Marketing Service-at USDA to give the administration's views on these proposals. Additionally, we are joined by representatives from the National Farmers Union, the American Farm Bureau Federation, and the American Agriculture Movement.

Since many of the bills share several common features, it is my hope that we will be able to hear discussion of these general mech-

anisms and concepts as well as any features unique to any one proposal.

Also, Senator Cohen plans to join us later to discuss one particular bill, and representatives of the soybean, mushroom, potato, pecan, and cotton industries are present to testify on specific bills of interest to them. Additionally, we expect to receive written testimony from the lime and honey industries in relation to their proposals, as well as additional written statements concerning several bills—especially a statement by Senator Mitchell in support of the potato legislation.

Senator Bob Graham also has sent a statement in regard to the lime legislation, and I will place his statement into the record.¹ We will keep the record open to receive comments from others who might like to submit testimony for us.

We will insert in the record, at this point, the prepared statements of Senators Fowler and Wilson.

[The prepared statement of Senators Fowler and Wilson follow:]

PREPARED STATEMENT OF HON. WYCHE FOWLER, JR., A U.S. SENATOR FROM GEORGIA

The kinds of checkoff programs we are considering today have been very popular and very successful for a number of commodities—because they are essentially self-help programs. We allow the beef and dairy industries and other commodity producers to develop the market for their products, coordinating their efforts throughout the process, from research and product development to advertising.

Some of these promotion efforts, such as the cotton marketing program, have been very successful in rebounding from severe market losses in the 1950's and 1960's. Cotton, beef, eggs and dairy have all made significant comebacks, thanks largely to the efforts of the producers themselves—through marketing orders.

But that does not mean that American producers are not still hard-pressed by competition. There are also many agricultural products that have great unrealized market potential remaining. These marketing programs need to be strengthened, and extended to more commodities—such as pecans. Pecans and many other products of our American farmers can benefit from the consumer awareness, market exploration and new product development that come from successful checkoff programs.

I have introduced legislation to establish a pecan marketing order. And I have joined others of my colleagues on the Senate Agriculture Committee in introducing legislation on behalf of soybeans and honey, as well as an updating of the cotton program. I believe the proposed marketing orders will result in wider acceptance for all these important farm products.

If we have learned anything about trade and markets in recent years, as we have faced stiffer challenges from foreign competitors and ersatz substitutes for agricultural commodities, it is that market and trade relationships do not remain static. We live in a changing world with ever changing marketing needs and opportunities.

We can't afford to stick to the status quo in any business. That isn't good enough now, and it surely will not see us through the 1990's. We have to continually explore new areas of research and product development, advertising and promotion. That goes for honey and pecans as well as high-tech computers. Marketing orders will allow us to do that. The benefits will be spread across a broad base of producers, processors, distributors, and so on.

I think it is important to extend the logic of these successful programs to allow growers to determine what is in their best interest and adjust their programs accordingly—as we have attempted to do in the cotton promotion bill just introduced.

Another important thing to remember is that we are in no way talking about providing Federal funding assistance. These marketing orders represent a good policy we can pursue without concern, for a change, about adding to the budget deficit.

Commodity producers are willing and able to achieve market expansion on their own. They are not asking for a Federal handout. They are merely asking us to give

¹ See pp. 43-44 for the prepared statement of Senators Mitchell and Graham.

them the opportunity to run their own coherent programs, coordinated nationwide if that is appropriate, so that they can help themselves.

PREPARED STATEMENT OF HON. PETE WILSON, A U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, I appreciate the opportunity to speak in strong support of S. 992, which I have cosponsored with Senator Cranston and which has been referred to this committee. I believe this legislation, if enacted, will be of great assistance to the kiwifruit and stone fruit growers in my home State of California.

In brief, the legislation would require that imported kiwifruit, peaches, plums, nectarines, and pears meet the same minimum quality standards as are imposed on similar, domestically grown fruit.

Mr. Chairman, this legislation does not merely provide equity for our domestic growers. It also helps to ensure that the consumers in this Nation will find only the finest quality produce in the marketplace, whether it be grown domestically or imported.

In California, growers operate under Federal marketing orders authorized by the act. A major feature of marketing orders is that only fruit meeting certain minimum quality standards may be marketed in commercial channels. The purpose is to ensure that only the highest quality produce gets to the market.

However, our domestic growers continue to encounter imported kiwifruit and stone fruit in the marketplace below the minimum quality standards established for domestically grown produce. This is because imported kiwifruit and stone fruit are not subject to the minimum quality standards imposed on similar fruit grown domestically.

Because consumers generally do not know where the fruit is produced, this low quality, imported fruit has a serious adverse effect on sales of similar, domestically grown fruit.

The proposed legislation brings fairness to our domestic growers by applying the same minimum quality standards for domestically grown kiwifruit and stone fruit to imported kiwifruit and stone fruit, and also helps to assure high quality produce for America's consumers.

Thank you, Mr. Chairman.

Senator BOREN. We are going to move with dispatch. If we could I am going to ask our witnesses to summarize their prepared testimony for us as much as possible, hit the high points. I think we have the timer operative. I hope so. We will try to stay within a 5-minute timeframe so that we can give everyone a chance to be heard this morning and then we will proceed with questions.

Dr. Clayton, we are glad to have you with us this morning and we welcome your testimony at this time.

STATEMENT OF KENNETH C. CLAYTON, ACTING ADMINISTRATOR, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC; ACCOMPANIED BY PAUL M. FULLER, DIRECTOR, LIVESTOCK AND SEED, CHARLES R. BRADER, DIRECTOR, FRUIT AND VEGETABLE, AND JESSE F. MOORE, DIRECTOR, COTTON, MARKETING SERVICES AND REGULATORY PROGRAMS

Dr. CLAYTON. Thank you very much, Mr. Chairman. I certainly do appreciate the opportunity to appear before you today to present the Department's views on research and promotion proposals for soybeans, mushrooms, potatoes, pecans, and cotton.

Accompanying me are Paul M. Fuller, the Director of the Agricultural Marketing Service's Livestock and Seed Division, Charles Brader, Director of AMS's Fruit and Vegetable Division, and Jesse Moore, Director of AMS's Cotton Division. These gentlemen would have the responsibility of implementing the various proposals under consideration should they be enacted.

Mr. Chairman, in the interest of time, I would like to limit my oral remarks, but I will request that my prepared statement be submitted in full for the record.

DEPARTMENT HAS NO OBJECTION TO THE ENACTMENT OF THESE BILLS IF AMENDED TO ADDRESS THE CONCERNS OUTLINED IN THE DEPARTMENT'S REPORTS TO THE COMMITTEE

The Department has no objection to the enactment of these bills if amended to address the concerns outlined in the Department's reports to the committee, as well as in my prepared testimony. Many of the changes recommended for consideration are designed to facilitate the administration and enforcement of these bills.

SCOPE OF COMMODITY RESEARCH AND PROMOTION PROGRAMS

As you are aware, the Department currently oversees a number of research and promotion programs. We have programs for beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, and wool, lamb, and mohair. In addition, authority exists for the floral and wheat programs, although those programs are not now in effect. These national promotion programs, which focus on generic promotion and market development for their commodities, devote in excess of \$300 million a year to increase public and commercial awareness of their products. The Department has traditionally taken the position that we have no objection to industry self-help initiatives which are designed to help producers improve their position in the marketplace.

LEGISLATIVE GUIDELINES FOR COMMODITY RESEARCH AND PROMOTION PROGRAMS

It is the Department's position that when research, promotion, and education programs are enacted by Congress, the long-run interests of the industry and the general public are best served when such legislation contains certain features.

Such programs should be national in scope, representing the collective efforts and interests of industry members nationwide.

They should be implemented through an upfront referendum by a majority of qualified persons voting. However, if implemented by a delayed referendum, there should be provision for refunds—either through direct monthly refunds or escrow—prior to issuance of the final order.

There should be opportunity for industry groups to reaffirm their support for these programs if requested by at least 10 percent of the qualified persons.

There should be prompt refunds and confidentiality of refund information where refunds pertain.

The Secretary of Agriculture should appoint the board members from the industry.

For programs that assess imports, there should be provision for equitable treatment of domestic and imported commodities, importer representation on the boards and in referenda, and compliance with international trade agreements.

There should be a prohibition on the use of assessment funds for false or misleading advertisement.

There should be a prohibition on the use of assessment funds to influence legislation or governmental policy or action, except in recommending to the Secretary amendments to the order.

There should be direct enforcement authority by the Secretary.

There should be full reimbursement to the Department from the date of petition for an order for costs incurred in administering the program, including startup costs, salaries of Department personnel, and the cost of conducting referenda.

And finally, there should be authority for the Secretary to suspend or terminate a program if the Secretary should determine that the program no longer carries out the policy of the authorizing statute.

Mr. Chairman, rather than discuss each of the proposals before us today, because there are quite a number of them, what I would like to do is address just a few of the high points, if you will, as we see it in terms of the most significant concerns that we have on the proposals before us. Let me turn first to the issue of full reimbursement of cost to the Department of Agriculture.

FULL REIMBURSEMENT TO THE DEPARTMENT

Except for the pork and wheat programs, the Department has previously not been provided full reimbursement for costs incurred until after issuance of the final order. For newly authorized commodity research and promotion programs, the Department strongly urges the committee to provide for full reimbursement of costs incurred by the Secretary in implementing and administering such programs, including costs for conduct of referenda. Although the Department has previously absorbed salary and other costs associated with the startup of these programs, the rapidly growing number of programs requires us to redirect staff resources from other very critical program areas to handle the heavy volume of work associated with implementation. The Department can no longer continue to absorb these startup costs, and we think very strongly that a provision should be made to allow us to recover those costs.

SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT (S. 919) AND DEPARTMENT RECOMMENDATIONS—MARKET ACCESS PROVISIONS OF S. 919

Turning to the soybean proposal, section 5(e)(2) of that proposal authorizes the Soybean Program Coordinating Committee to develop plans or projects relating to market access activities.

The bill defines "market access activities" as "activities or actions designed to *identify* and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products that do not involve actions designed to influence legislation in the United States." This definition would permit a wide range of actions designed to directly influence foreign government policies. It would also sanction attempts to influence the policy decisions of Federal executive branch agencies.

The Department does not believe that research and promotion boards, which are instrumentalities of the Federal Government, should be authorized to use producer checkoff funds to engage in

the types of activities contemplated by this action. Such international trade activities are, and should continue to be, confined to those executive branch agencies responsible for formulating and conducting the trade policy of the United States.

Of course one additional concern there is what precedent we might be setting with the soybean bill given the allowances which might be provided in this area. I think we do need to look ahead to the possibility of future programs of this type, and then keep that in mind also. It is also my understanding that the Department of Justice has identified certain constitutional concerns with the soybean proposal. It is my understanding that they will articulate those concerns directly to the committee in a forthcoming report.

POTATO RESEARCH AND PROMOTION ACT AMENDMENTS (S. 836) AND
DEPARTMENT RECOMMENDATIONS

Turning quickly to the potato proposal, in addition to concerns which are outlined in my full statement, the administration urges modification of the categories of imported potatoes which would be assessed to assure the same coverage for imports as for domestic product. Discriminatory treatment of imported potato products would violate our obligations under the GATT as well as under the United States-Canada Free-Trade Agreement.

PROPOSED COTTON BILL

With regard to the proposed cotton bill, the administration opposes assessments on imports of cotton and cotton products. The U.S. imports of these items are limited by quotas. Potential benefits from this program for the assessed imports of cotton and cotton products would therefore be minimal. Domestic producers would be the exclusive beneficiaries. This inequity in assessment versus potential returns represents discriminatory treatment of imported product and would be a violation of our international obligations.

As I indicated earlier, Mr. Chairman, we have a number of other specific concerns with some of these proposals. Many of these concerns relate really to the administration and the enforcement of the programs which of course we will be charged in dealing with. I would say that we certainly stand ready to work with the committee staff to draft appropriate bill and report language that would address our concerns.

Mr. Chairman, this concludes my statement. I would be happy to respond to any questions.

[The prepared statement of Dr. Clayton and letters from the Department of Agriculture, Office of the Secretary, dated July 26, 1989, appear at the conclusion of the hearing.]

Senator BOREN. Thank you very much, Dr. Clayton. After you began your testimony Senator Bond has joined us and with your lead, I would like to allow him time to make a brief statement. I know he is in the midst of taking a testimony in the Hastings trial and proceedings which consumes nearly about 12 hours a day, I think, the last several days, and he is going to go back to that meeting very shortly. Senator Bond, if you would like to, we would welcome any statement that you would like to make at this time.

STATEMENT OF HON. CHRISTOPHER S. "KIT" BOND, A U.S.
SENATOR FROM MISSOURI

Senator BOND. Mr. Chairman, I appreciate your understanding and indulgence. With your outstanding service on prior special committees you know how time consuming they can be. I would just add that when asked about it I advise that I felt much like the person that Abraham Lincoln described who was tarred and feathered and ridden out of town on the rail. He said that if it were not for the honor of the thing, I would rather walk.

I would also like to apologize to Dr. Clayton for interrupting, but as an original cosponsor of the Soybean Promotion, Research, and Consumer Information Act (S. 919), I have a parochial interest in this. I want to express my strong support for the bill and I appreciate this opportunity, Mr. Chairman. My distinguished colleague and friend, Senator Pryor, who has also been honored with service on the Hastings panel, and I have worked very closely with the American Soybean Association in developing the legislation. I believe the ASA's hard work is evidenced by the fact that 29 Senators, more than one-quarter of this body, cosponsored the bill. I congratulate ASA for their efforts. I believe this legislation will prove a tremendous benefit to soybean producers throughout the Nation.

Since becoming a member of the Agriculture Committee in early 1987, I have been very much concerned about developments in our soybean industry. We are all aware of the distortions, or inequities, of current farm programs. In short, the United States is no longer in a position to compete for significant annual increases in world oilseed demand. As a result, our main competitors, Brazil and Argentina, may soon produce more acres of soybeans than the United States.

The export market is probably more important to soybeans than any other crop in the United States. Over one-half of annual production is destined for export. In my home State of Missouri, exports of soybeans and soybean products account for over 56 percent of total agriculture exports, more than \$500 million in 1987. ASA's estimates of the market potential of the Soviet Union and China (650 million bushels) are more than four times the annual production of Missouri. If you use the multiplier of 67 cents per 100 million bushel increase, this would increase farm prices by \$4.35 per bushel.

As important as the export market is, the SPARC also authorizes programs for research and consumer education. If we are to be competitive, production costs must be minimized. We can increase demand by aggressively pursuing new uses for soybeans and soybean products. I see my very good friend, Mr. James Lee Adams is with us today, and I noted in his prepared testimony that 85 percent of consumers cannot name soybean oil when asked to name vegetable oils. Now, I think that is a good reason that producer funded educational programs will increase consumer awareness of the many important health benefits associated with soybean and soybean products. But from there, what does the bill do? James Lee Adams will go into the detail later on. Let me just give you a very brief summary.

First, it authorizes the nationwide checkoff of one-half of 1 percent of the net sales proceeds of each bushel, amounting to about \$50 to \$60 million, given current conditions.

Second, it establishes the farmer run National United Soybean Board. The Board is charged with allocating funds subject to the approval of the Secretary.

Third, it maintains existing State checkoff programs by investing 50 percent at this level.

Four, it prohibits funds from being used for lobbying efforts.

Five, it mandates a farmer referendum within 18 to 36 months. During this period refunds will be allowed.

Six, it requires a recall vote at the request of at least 10 percent of soybean producers provided, there is a certain degree of geographic distribution.

Mr. Chairman, early on there was some concern expressed over a few of these provisions, but the ASA has worked with several farm organizations and USDA to accommodate their concerns. I am very pleased that this has been accomplished, and the bill now has widespread support. This morning's hearing is a very important second step in the long process of passing legislation. I am particularly grateful to you, Mr. Chairman, for your efforts and remain hopeful that we can pass the bill, along with the other promotion bills pending before the committee in the near future.

While some say it may end up in the farm bill, I believe we should make every effort to pass the legislation this year.

Mr. Chairman, in conclusion I ask unanimous consent that the testimony of a constituent of mine, Mr. Don Heil, a farmer in Carroll County, Missouri, who has been chairman of the SPARC Committee and cannot be here today, be included in the record.

Senator BOREN. It will be so included.

[The prepared statement of Mr. Heil follows:]

PREPARED STATEMENT OF DON HEIL, FARMER, CARROLL COUNTY, MO

THE SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

I am Don Heil, a farmer in Carroll County, Missouri in response to some soybean farmers who think refunds of checkoff should be granted even after the passage of "SPARC" referendum. In all fairness, it has been decreed that all who benefit pays.

Dr. Abner Womack, a computer ace, from the University of Missouri has found that for every extra 100 million bushels of soybean sold adds 67 cents per bushel to the price. Dr. Womack's computer speaks the same language as the computer in use by the USDA—in fact, each is used as a backup for the other. Some would say, "The small farmer doesn't realize much profit from the checkoff." Others would say, "It costs the large producer too many dollars." Everyone benefits—everyone pays commensurate with his production and benefits.

I have a neighbor who farms more than I, and who requests his checkoff refunded. He benefits as much as I, but, pays nothing toward market promotion or research. I ask you, "Is this fair?"

Senator BOND. I will ask one question of Dr. Clayton. I came in just in time to hear you express concerns about the market access provisions. I do not think there is any question that the USTR is the lead agency and the USDA has a very important coresponsibility with that agency, however, is it not accurate to say, Dr. Clayton, that the Federal Government has, on occasion, requested the American Soybean Association to assist them with respect to the European Community oils and fat taxes? Is there not an effective

role that can be played in assisting the Federal agencies in carrying out the market access questions?

Dr. CLAYTON. Senator Bond, I can probably answer that in two ways. I think certainly as a technical resource the industry representatives can obviously be a great deal of help to the Foreign Agricultural Service and to the Office of the U.S. Trade Representative as they hold discussions and consultations with representatives in foreign governments. So, clearly that part of the answer is yes.

I think the important dividing line there has to do with advocacy of policy positions, and the line that we have to preserve is one of providing that kind of input which is very important, but retaining the advocacy role in terms of convincing the foreign government to make the policy change to representatives of the U.S. Government who in fact are empowered to make those cases.

Senator BOREN. The House bill, as I understand it now has been modified to make it clear these funds would not be used for the purpose of lobbying foreign governments. Is that provision, as now written, is it satisfactory to the Department, the changes that have been made in the bill?

Dr. CLAYTON. I think the amendment which was offered to the House bill was still creating some problems for us. We, however, have as late as yesterday afternoon been meeting with representatives of the soybean industry. We are moving rather close to a position that we can mutually accept. Of course, that is pending the outcome of the final words on paper. We will reserve judgment on that.

Senator BOREN. We would appreciate being kept informed of the course of those negotiations, so we can give consideration to that language.

Senator BOND. Thank you very much, Mr. Chairman. I certainly appreciate the understanding and cooperation.

Senator BOREN. We do indeed understand the situation and there will be stars on your crown for serving on that committee. Hopefully the duty will end for you soon. I am also submitting for the record a statement by Senator McClure in regard to the Potato Research and Promotion Act.

[See p. 58 for the prepared statement of Senator McClure.]

We have been joined also by Senator Baucus and Senator Cochran. Senator Baucus, any opening comments?

STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Very briefly, Mr. Chairman. Thank you very much. Dr. Clayton, I am a very firm supporter of the beef checkoff system. I think it has worked very well in many ways. I think it has given a psychological boost to producers. I think some of the TV ads have been terrific, some of the best in television. I am not a big fan of a lot of TV ads, but I think those have been excellent.

My question is, in your experience, the degree to which other countries' producers have similar systems, where do we as Americans fare compared with say the Canadians? Are there any lessons we can learn from what other producers in other countries do, that

is, the major marketing countries, the Canadians, the EC, and Australia, New Zealand, Argentina, et cetera?

Dr. CLAYTON. To be very honest, Senator, I am not sure I know the answer to that question. My impression is that perhaps we are out front a bit in that area.²

Senator BAUCUS. I suggest you look into that and at some future date let us know. I see some heads shaking negatively in the audience. And that is in response to your remarks, so I would urge you to look at that very closely because I think it is important that we know. At the very least know what the competition is doing, so that we know what we should or should not do in response. Thank you.

Senator BOREN. Thanks, Senator Baucus. Senator Cochran.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM MISSISSIPPI

Senator COCHRAN. Mr. Chairman, let me just congratulate you and thank you for convening this hearing and welcome all of our witnesses who will be testifying today. I am an original cosponsor of the cotton and soybean promotion bills and have been added as a cosponsor to the bill relating to pecans and I am also considering cosponsoring others. But I think it is a good idea to take a look at what we are being asked to do and very carefully examine the implications of request for the legislation.

I think one thing that is very clear to me is that there are referenda that will be called for here where producers will actually have a role of saying whether they want or do not want these promotional activities to go on and there will be a board made up of representatives of all the producers, so that they will have a voice in the decisions that will be made about promotion activities. So I think that we should congratulate the producer groups for taking advantage of this kind of mechanism as Senator Baucus points out. I remember as a Member of the House considering the beef check-off program and helping work out some of the problems with that legislation. I think it has been a great success and many other models for this kind of thing have been successful. So I am looking forward to hearing the testimony of the administration representative, and others, who will help us understand more fully what the legislation can do to help improve marketing of agriculture commodities and help improve our competitiveness around the world in helping to ensure that we sell as much as we can in the international marketplace of what U.S. farmers are producing. Thank you.

Senator BOREN. Thank you very much, Senator Cochran. As a cosponsor of some of these bills I certainly, of course, agree with what you have said and also with what Senator Baucus has said. I think that the producer groups are to be commended for the initiative that they are showing in helping us maintain our market share and also not only the contribution of marketing, but the contribution of research as well which is included in these programs. I think that they are making good use of the models that have come

² For a response to this issue see: Foreign Market Development for High Value Agricultural Products, GAO/NSIAD-90-47 and Competition for Japan's High Value Agricultural Market, GAO/NSIAD-90-134.

before and this is something that is a very positive development overall.

Dr. Clayton, just a couple of questions. As a general policy you have commented on some of the specific provisions. State again your position in terms of covering imported products into this country in terms of the general policy of the Department?

Dr. CLAYTON. Certainly. The important issue as it relates back to international obligations is the issue of what constitutes equitable treatment. In GATT terminology, it is referred to as national treatment. What is important is that whatever burden in terms of the assessment is put onto imports, such burden must be equivalent to whatever is being used domestically. There has to be an equivalency of coverage between the domestic market and imports.

Senator BOREN. So whether or not that you think that the import of products should be covered depends upon such things as market access and other standards in terms of just assuring equal treatment?

Dr. CLAYTON. Yes.

Senator BOREN. But if there is equal access to the market than you are not necessarily opposed as a matter of fundamental policy toward import of products being included?

Dr. CLAYTON. That is correct.

Senator BOREN. I do not think that you mentioned today, but I understand that the Department has recently, and I do not know if this was even brought up in the House subcommittee hearings on the soybean bill, and others, that it is the position of the Department that the referendum approval be by majority of the voters participating and in addition that two-thirds of the production be represented in the voting. Is that now USDA policy?

Dr. CLAYTON. Actually we have been focusing on what might be the most reasonable approach on that issue. At this stage, Departmental policy is that a majority vote ought to, in fact, be sufficient. Clearly, if an industry should decide they wanted to increase the requirement for whatever set of reasons they felt were important we would, of course, not oppose that. But we believe that at a minimum there ought to be at least a provision for a majority vote.

Senator BOREN. So the other comment about two-thirds of the production being represented of the voting, that is not necessarily from USDA policy? These are just matters you have under consideration?

Dr. CLAYTON. Right. In fact, I think we probably would view as sufficient language that provided for a majority vote.

Senator BOREN. What about the research side of these bills? Does the Department have any particular feeling or views about private research being conducted with these funds? I wonder how well this research is coordinated with Government research in these areas?

Dr. CLAYTON. What is critical is that there be a well-thought-out plan of research by each of the various boards and committees that would fall out of each of these various promotion programs. Then I would think it is a question for each board to decide where best might the work get done, and consequently putting a package of research together. I would have to believe that by referring to Government research, you are alluding to things which might already be in process. For example, I would have to think that the board

certainly would take cognizance of the work which was in process that they could build upon, so that there would be little or minimal danger of overlap. It is then a function of where one can best get the work done to put that package of information together which, in fact, can then be turned to an advantage in the marketplace.

Senator BOREN. Are you familiar with S. 992. This is the bill that relates to kiwifruit, peaches, pears, nectarines, and plums to amend section 8(e) of the Agricultural Adjustment Act (7 U.S.C. 608e-1). We have received statements which we are including for the record for this hearing from Senators Cranston³ and Wilson and it is my understanding you may be preparing a report on S. 992?

Dr. CLAYTON. That would be correct. We certainly are looking at the issue, of course, which is extending the commodity coverage under the 1937 act to include more commodities which could be covered under the 8(e) provision. We are holding internal discussions at the moment on that issue and I am not prepared at this time to tell you what the outcome of those discussions will be. But, certainly, that position will be forwarded to you as soon as it is available.

Senator BOREN. But do you have any idea—if at all possible, we would like to include that since we do have Senator Cranston's statement and Senator Wilson's statement on that legislation that we are going to include in this hearing record. Do you think that may come in in the near future so that we could include your report in this hearing record on this matter as well?

Dr. CLAYTON. We will certainly make every effort to do that. I do not quite know what the time schedule is on that work. I can assure you however, that we will endeavor to do that.

[The material was subsequently received for the record and follows:] —

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, April 17, 1990.

The Honorable PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate,
Washington, DC

DEAR MR. CHAIRMAN: We appreciate the opportunity to respond to your request for a report on S. 992, a bill "To amend the Agricultural Adjustment Act to prohibit the importation of kiwifruit, peaches, pears, nectarines, and plums that do not comply with any grade, size, quality, and maturity provisions of a marketing order applicable under such Act to the respective kind of fruit produced in the United States or with comparable restrictions promulgated under such Act."

The Department of Agriculture has no objection to the enactment of S. 992 if amended to delete peaches and pears.

Section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (the Act), provides that whenever grade, size, quality or maturity regulations are in effect under marketing orders for certain specified commodities, the importation of such commodities is prohibited unless they meet the same, or comparable, regulations. Section 8e further authorizes the Secretary of Agriculture, through informal rulemaking, to require imports to meet domestic standards for a period of time (not to exceed 35 days) in addition to the period covered by the marketing order if the Secretary determines that such additional period of time is necessary to prevent circumvention of the grade, size, quality or maturity standards of a seasonal marketing order.

Less than half of the domestic production of peaches and pears is subject to grade, size, quality or maturity regulations under Federal marketing orders. Extension of

³ See pp. 58-59 for the prepared statement of Senator Cranston.

section 8e import regulations to peaches and pears could be viewed as inconsistent with United States obligations under Article III of the General Agreement of Tariffs and Trade (GATT), which prohibits subjecting imported products to any treatment that is less favorable than that accorded to the like domestic products with respect to any law, regulation or requirement affecting the internal sale, offering for sale, purchase, transportation, distribution or use of the products. We, therefore, urge that the committee delete peaches and pears from S. 992.

The situation of plums, nectarines and kiwifruit is quite different. As we explain in the supplemental statement enclosed with this report, 85 percent or more of the domestic production of plums, nectarines and kiwifruit is subject to grade, size, quality or maturity regulations under Federal marketing orders. If the Congress determines to extend section 8e import regulations to these commodities, it could be argued that such action would be consistent with United States obligations under GATT because importers and domestic producers would be treated alike.

The shipping seasons of domestic and imported fruit overlap to varying degrees, and there is often wide variation in the quality of fruit. Consequently, the effects of adding these five commodities to section 8e would differ depending on the commodity, the relative timing of the domestic foreign seasons, and the relative quality of the domestic and foreign crops. The potential impacts of the addition of kiwifruit, peaches, pears, nectarines, and plums to the list of commodities for which import restrictions are applied are detailed in the enclosed statement.

Section 8e presently authorizes import regulations for 18 commodities, and Federal marketing orders for 14 of those commodities currently utilize such authority (identified by asterisk*). Authority for section 8e import restrictions was added to the Act in 1954 for tomatoes*, avocados*, limes*, grapefruit*, green peppers, Irish potatoes*, cucumbers, eggplants, and mangoes. Oranges*, onions*, walnuts*, and dates (other than dates for processing)* were added in 1961; raisins*, olives (other than Spanish-style green olives)* and prunes* in 1971; filberts* in 1977, and table grapes* in 1981.

Section 8e does not exclude imported commodities from the U.S. market, rather it makes possible a form of market regulation that provides equal treatment to domestic and foreign producers. This is evidenced by the fact that imports of nearly all commodities subject to section 8e have maintained their share, and several have made substantial gains.

These data indicate that rather than being trade barriers, quality standards facilitate market expansion for foreign and domestic producers.

The estimated cost of implementing the provisions of S. 992 could be as much as \$10,000 annually. Any costs associated with 8e inspections would be borne by the importers.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

Enclosure.

EFFECTS OF ADDING KIWIFRUIT, PEACHES, PEARS, NECTARINES, AND PLUMS TO SECTION 8e OF THE AGRICULTURAL MARKETING AGREEMENT ACT

If kiwifruit, peaches, pears, nectarines and plums were added to section 8e of the Act, such imported commodities would have to meet the same or comparable grade, size and maturity requirements as such domestic commodities during the period when the fruit is marketed under marketing order regulations.

KIWIFRUIT

Virtually all U.S. kiwifruit is covered under Marketing Order No. 920 for kiwifruit grown in California. While the domestic handling regulation for California kiwifruit is currently in effect on a year-round basis, the marketing season generally is from October through May.

The vast majority of imports of kiwifruit are from May through September. Most imports of kiwifruit are from New Zealand, with small amounts from Chile and Australia also reported. In 1988, New Zealand kiwifruit was marketed in the United States from early April through November. If the domestic requirements were imposed during the October through May period, less than 2 percent of New Zealand kiwifruit would be affected.

If the import regulations were implemented in September, 35 days in advance of domestic shipments, as is authorized under section 8e, roughly 30 percent of the New Zealand kiwifruit imported into the United States could be affected.

The countries that might be most affected are Italy and France. Those countries, unlike New Zealand, produce kiwifruit during the domestic marketing season for kiwifruit. Although New Zealand is currently the world's largest producer of kiwifruit, Italy is the second-largest producer, followed by Japan and the United States. If current trends continue, Italian production could surpass that of New Zealand by 1992. Even if Italian production does not reach that level, it is expected that Italian and other European kiwifruit producers, such as those in France, will try to ship kiwifruit to the United States during the domestic marketing season. Section 8e regulations would be in effect during this period. Furthermore, the regulations could be expected to have an impact on European imports, because they are generally of lower quality than domestic kiwifruit.

PEACHES

There are four Federal marketing orders for peaches. California peaches are regulated under Marketing Order No. 917; Georgia peaches are regulated under Marketing Order No. 918; Mesa County, Colorado, peaches are regulated under Marketing Order No. 919; and Washington State peaches are regulated under Marketing Order No. 921. Collectively, about 40 percent of U.S. peach production marketed in fresh outlets is regulated under these marketing orders.

When a commodity such as peaches is covered by more than one marketing order, a determination is made as to which set of regulations should be applied to imports of that commodity under Section 8e requirements. Generally, the handling regulations for the dominant shipping area are used. In the case of peaches, California dominated the domestic market from April through October each year, although minimal shipments occur in November. Colorado shipments occur from late August to October; Georgia shipments, from May to August; and Washington, from July to October.

Imports of peaches have increased more than ten-fold in the last 10 years, from 3,522 tons in 1979 to 467,520 tons in 1988. Major exporters of peaches to the United States are, in decreasing order, Chile, Mexico, New Zealand and Canada.

Shipments of New Zealand peaches usually arrive in the United States between January and March, when there is no domestic production. Therefore, New Zealand peaches would not be expected to be subject to any potential import requirements. However, imports of Canadian, Chilean, and Mexican peaches do compete with domestic peaches in varying degrees. Of peaches imported into the United States, about 96 percent come from Chile, with the remaining 4 percent coming from other nations.

If import regulations were in effect beginning with the first California peach shipments about April 20, and stayed in effect until the last shipments of California peaches in October, 1 percent, or less, of Chilean imports and as much as 100 percent of Mexican and Canadian imports of peaches would have to meet the domestic requirements. However, if the import regulation were implemented 35 days in advance of the domestic season, as is authorized under Section 8e regulations, as much as 30 percent of Chilean peaches entering this country would need to meet domestic handling regulations.

PEARS

California, Oregon, and Washington, which are the areas regulated by Federal marketing orders for pears, account for almost all commercial production in the United States. The California marketing order for nonwinter pears (M.O. No. 917) essentially regulates Bartlett and Red Bartlett pears, as well as plums and peaches. The California-Oregon-Washington marketing order for winter pears (M.O. No. 927) currently has no regulations in effect, and, therefore, would impose no requirements on imported winter pears at the current time. The Washington-Oregon Bartlett order (M.O. No. 931) has not regulated since 1978. Thus, collectively, about 15 percent of U.S. production is currently under a grade and size regulation.

In general, the addition of pears to Section 8e could result in more complex effects than the addition of many other commodities, because there are three Federal marketing orders authorized to regulate winter and nonwinter pears, and the three States covered by the orders have somewhat varied shipping seasons, depending on climate and variety produced. M.O. No. 917 established grade and size requirements for Bartlett-type pears, and is the only order with current regulations. However, the

other pear marketing orders could also implement handling regulations in the future, as they have the authority to do so.

The California Bartlett pear packout season is from early July to about September 1 each year, depending on crop conditions. Shipments of California Bartletts, however, may occasionally continue until the beginning of December.

During the early July to December shipping period for California Bartletts and Red Bartletts, imported Bartlett pears from Australia, Chile, Argentina and perhaps South Africa or Japan would need to meet domestic handling regulations if pears were added to Section 8e of the Act. The amount of Bartlett imports from these countries during this period is small, however, as most imported pears are winter varieties.

NECTARINES

Although commercial production of nectarines occurs in relatively small quantities in a few States, the State of California, which is the area covered by Federal M.O. No. 916, accounts for roughly 90 percent of the annual domestic production. The National Agricultural Statistics Service, however, reports crop and marketing data only for California nectarines.

The California nectarine packout season is from about April 30 to September 10 each year, depending on crop conditions. Although the California shipping season occasionally extends from April to as late as November, the import season for nectarines does not overlap the domestic season.

Almost all imported nectarines are from Chile, with shipments from January until late March or early April. Mexico also ships lesser amounts to the United States, during essentially the same time period as the Chilean season.

Since the shipping seasons of domestic and imported nectarines do not overlap, Section 8e regulations would not be expected to apply to imports of nectarines, given the import market of recent years.

PLUMS

Although commercial production of plums occurs in numerous States, including Washington and Oregon, the State of California, which is regulated under Federal M.O. No. 917 for plums, accounts for approximately 85 to 90 percent of the annual domestic production (M.O. 917). Most of the remaining 10 to 15 percent of domestic production is shipped from the States of Washington and Oregon. Plums from this region are actually prune-plums which are regulated under a Federal marketing order (M.O. 924). Since such a large percentage of domestically produced fresh plums are from California, Section 8e regulations would likely be based on the California marketing order, which is dominant the entire season. The California plum packout season is from about May 15 to September 10 each year, depending on crop conditions. Shipments of California plums may occasionally continue until the beginning of November.

As the Washington and Oregon marketing order for prune-plums would not be likely to dominate domestic production and shipping at any time, the order would not set any regulations under Section 8e.

As is the case with numerous other tree fruits, almost all plums imported into the United States are from Chile, which ships from December until late April or early May. Aside from Chile, Canada and New Zealand occasionally supply amounts that are not significant in the marketplace, generally well under 1 percent. Thus, there is no overlap of the domestic and import market. Since the shipping seasons of domestic and imported plums do not overlap, Section 8e regulations would not be expected to apply to imports of plums, given the import market of recent years.

Senator BOREN. I appreciate that. It would help us if we could get it in in time and we could include it in this hearing record. I will just have staff be in touch with you to see if we can move ahead in that regard. Thank you very very much, Dr. Clayton, we appreciate your testimony. We appreciate your being with us. Again, if you would keep us posted on some of the negotiations that are going on, those on the House side in regard to the legislation. We do hope to put together a total package that we can move expeditiously on this side. That is one reason for wanting to hold the hearing at this time. So if we can keep posted on terms of negotiations on that side and the Department's position on languages

adopted there or agreed to there, that would help us move more quickly here on this side as well. Thank you very much.

We will now have a panel that will be composed of Mr. Howard Lyman, legislative analyst, the National Farmers Union; Andrew Whisenhunt, president of the Arkansas Farm Bureau, representing the American Farm Bureau Federation; and David Senter, national director of the American Agriculture Movement. If each of you gentlemen would come forward, we would be happy to have you join us now.

We will receive your full prepared statements for the record. If each of you would take approximately 5 minutes and hit the highlights, raise the major issues that you see and give us the thrust of your views. Without any order of preference, we will just go in the order in which you have been seated. Mr. Lyman, if you would proceed, we would be happy to hear your statement.

**STATEMENT OF HOWARD LYMAN, LEGISLATIVE ANALYST,
NATIONAL FARMERS UNION, WASHINGTON, DC**

Mr. LYMAN. Thank you, Mr. Chairman. I am Howard Lyman, legislative analyst, National Farmers Union. We are pleased to present Farmers Union's testimony on checkoff.

Basically it comes down in Farmers Union that our policy is achieved at a national convention. I need to tell you that never has there been a time at conventions that checkoffs are not a very contentious issue and they are widely discussed and a very spirited discussion.

WHEN SELF-FINANCED CHECKOFF PROGRAMS CAN BE JUSTIFIED

There are basically six points that Farmers Union looks at that checkoff need to have for our support.

First, is that we need to make sure that they are needed to encourage and promote consumer loyalty to the commodity or its end products that we are talking about.

Two, there is a potential for market growth, new markets, that there is a potential out there that we can expand the use of what we are doing.

Three, we are adamant that checkoffs need to be voluntary and that the consumer can get his money back at first point in sale. When that happens—I was a farmer myself and involved in check-off—we started one of the first checkoffs in the Nation in wheat marketing and research in Montana. It was a very rocky start. We spent a lot of time convincing producers to get involved in it. It was voluntary. We finally got it passed, and what we learned on it was that when the producers were satisfied with the program, they left the money in. When the program got off track, you immediately knew it because the checkoff would be picked up by the farmer at point of sale. You did not have to go to a board meeting to find out where it was, you immediately knew where you were at. When the organization corrected the problems, farmers went back and put their money back into the project. So we believe that voluntary checkoff at first point of sale are an immediate access that every producer can vote on the action of what is happening on the board.

Four, the next thing that we look at that is mandatory is that the program needs to be controlled and managed by the people that are paying the bill. Not that somebody who is appointed by a Governor or the Secretary of Agriculture, but the people that are paying the bill end up putting the people on the board that oversee how they spend their money.

Five, the next thing we look at is a two-thirds vote of the producers that are voting. This is probably the most important. If you take today where a farmer is out there financially stressed, he is spending as much time as possible on his farm. Every time he leaves that farm and goes to town, he tries to do it when the weather does not allow him to farm. Very seldom does the referendum end up being held on the day that it rains, so that he is not wasting his time. It costs the farmer \$300 to \$500 a day to be away from his farm. So what we are looking at is that we need a significant majority of the people voting that care enough to make it happen.

When we do this, if we take the soybean bill for example, they are talking about a simple majority to put the bill into effect, but 10 percent of the people that are soybean producers have to vote for a referendum. We could end up with less than one-half of 1 percent of the soybean farmers voting to enact it, and it would take 10 percent of the actual soybean farmers in referendum to getting to vote again. We believe that these numbers are incautionable.

Six, the last thing that we would like to address on is that if we look at the lobbying effort of soybean, or any other checkoff money that is out there, there are some States today that allow lobbying with checkoff money. If we take a national referendum, collect the money and share it with States, that national money could go back and replace the producer money in a State that was allowed for lobbying. And in effect what we would be able to do with that is under a referendum where you could not get your money back would go into a State and actually be legal to lobby with. And we believe that that has to be cured if we are going to deal with a checkoff bill.

We feel very strongly in National Farmers Union that the producer can put up money for a good program and make it work, but let us make sure that the money he puts up does the job that he wants to pay for. Thank you, Mr. Chairman.

[The prepared statement and exhibits A-D of Mr. Lyman appear at the conclusion of the hearing.]

Senator BOREN. Thank you very much, Mr. Lyman. A very clear and cogent statement. I appreciate it very much.

Mr. Whisenhunt. We will hear from the whole panel and then Senator Cohen has also joined us. He is in the midst of some other committee responsibilities, so I will then call him to make a comment. Then we will come back and address questions to the whole panel. Mr. Whisenhunt.

STATEMENT OF ANDREW WHISENHUNT, PRESIDENT, ARKANSAS FARM BUREAU AND MEMBER, AFBF BOARD OF DIRECTORS, BRADLEY, AR

Mr. WHISENHUNT. Thank you, Mr. Chairman and members of the committee. We do want to submit a full statement, and I will summarize to the best of my ability.

I am Andrew Whisenhunt and I am a soybean, wheat, cotton, and rice producer from Bradley, Arkansas. I also serve as president of the Arkansas Farm Bureau and I am a member of the board of directors of the American Farm Bureau Federation (AFBF).

Senator BOREN. You get close to the Oklahoma border, I gather?

Mr. WHISENHUNT. Just as close as I can and Louisiana and Texas by the way. I am in the four-State area.

Senator BOREN. Right.

AFBF RECOGNIZES THE RIGHT OF PRODUCERS TO ESTABLISH AND FUND PROGRAMS

Mr. WHISENHUNT. AFBF recognizes the right of producers to establish and fund programs designed to promote increased research, sales and consumption of the commodities they produce. Our diverse membership feels it is imperative that commodity specific checkoff programs be structured to provide producer control and safeguards against the program's misuse of funds or engaging in inappropriate activity.

It is important to remember these research and promotion programs have the potential to increase returns to the producers of the commodity. At the same time, the funds collected from farmers are of significant magnitude, both in total and to the individual producer that there is cause for concern. At the present time, there is approximately \$500 million being checked off annually for a variety of commodities. And when you consider that an individual contribution, if it is one-half of 1 percent of his net sales, if his net profit margin is 5 percent, this could easily be 10 percent of his net profit which is a significant portion of his income. The growers funding these programs need to exercise control over the program so that the funds collected from farmers are utilized in an effective and efficient manner. If this producer control is not assured, farmers may come to view these checkoffs not as an opportunity to work cooperatively to develop and administer these funds, but rather as a tax. And of course this would be counterproductive.

FARM BUREAU HAS DEVELOPED POLICY OVER THE YEARS WHICH ADDRESSES SPECIFIC PROVISIONS

Farm Bureau has developed policy over the years which addresses specific provisions that should be included in a checkoff program in order for us to support its establishment. These provisions are mainly intended to provide producer control and limit the use of funds to proper activities for checkoff programs. Many of the specifics that we recommend are included as provisions of the Agricultural Marketing Agreement Act of 1937 and are, therefore, grounded in historical legislative precedent. The list of safeguards included in Farm Bureau policy are:

One, approval by producer referendum prior to implementation of a program.

Two, referendum procedures which protect voting rights, provide uniform voting procedures and encourage maximum participation by producers.

Three, producer control over the program. There should be opportunity for refunds of assessments without undue difficulty. For programs that do not allow a refund, a periodic referendum to determine continuation or termination of the program should be held at intervals not to exceed more than 5 years; however, a referendum shall be held at any time upon petition of at least 10 percent of the registered producers in any area covered by the program.

Four, producer control of the board administering the program.

Five, limitations on the use of funds for promotion, market development and research only. Grower educational programs should be limited to project information and financial statements.

LEGISLATION

The proposed soybean checkoff program authorized by S. 919 and H.R. 2209, as they were introduced, failed to comply with some of the criteria outlined in our policy. AFBF leaders have engaged in extensive discussions with the bill's proponents, and informed congressional sponsors of the bill of our concerns and of our sincere desire to work with soybean associations to resolve these differences.

DISCUSSIONS AND RECOMMENDATIONS

The discussions that were subsequent to it and the negotiations that followed, I am happy to report that being part of it, that we were very successful in it. On June 5 of this year, the AFBF board of directors supported that if these recommendations were implemented that we would be fully in support and would work for the implementation and the passage of this.

More than 10 issue areas were discussed in these meetings, but the 7 major changes to the bill which both organizations agreed to support are:

One, a recall provision that would require a referendum if 10 percent of the soybean farmers signed a petition calling for a referendum on continuation of the program. In order to be sure that it would not be introduced from one specific region, that no one State could have more than 20 percent of that referendum vote.

Two, mandatory reconfirmation votes every 5 years.

Three, the legislation will provide a refund option to individual producers until the approval of the initial referendum.

Four, influencing legislation: the bill will substitute the language prohibiting the use of checkoff funds to influence legislation with language that is included in the authorizing legislation for the Beef Promotion and Research Act of 1985 which states:

The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental action or policy, with the exception of recommending amendments to the order.

Five, annual audits, require that the United Soybean Board funds and projects are audited at least annually.

Six, definition of terms, that specific definitions of promotion, research, consumer information and industry information would be agreed upon to help eliminate any concern over the use of the funds that so many times has been mentioned.

Seven, double assessment under soybean loan, the legislation and marketing order will establish a mechanisms of collection on soybeans under CCC loan, whereby a second checkoff assessment will not be collected when the product is marketed.

With these changes, AFBF will support the S. 919 and H.R. 2209. We believe these proposed changes will help instill greater producer confidence, understanding, and support for the program.

OUR POSITION ON OTHER PROMOTION AND RESEARCH PROGRAMS THAT HAVE BEEN PROPOSED

Our position on other promotion and research programs that have been proposed are guided by our policy that I stated earlier. To be brief, I will mention only the changes we would request to legislation that has been proposed for the commodity promotion and research programs for cotton, pecans, potatoes, mushrooms, and limes.

COTTON RESEARCH AND PROMOTION ACT AMENDMENTS OF 1989

The legislation introduced to amend the cotton promotion program fits the guidelines in our policy. It contains an upfront referendum and a provision similar to soybeans for a continuation petition every 5 years. It also contains a provision that allows 10 percent of the producers and importers to petition for a new referendum. This provision on foreign-produced cotton imports is very important to the program, since cotton imports will share in the benefits of any domestic market development program and should share in the cost of these benefits.

PECAN PROMOTION AND RESEARCH ACT OF 1989

S. 962, the Pecan Promotion and Research Act of 1989 should be amended to include an upfront referendum and either a refund provision or continuation vote every 5 years.

POTATO RESEARCH AND PROMOTION ACT AMENDMENTS OF 1989

S. 836 and H.R. 2257, the amendments to the present potato promotion and research program would delete the present refund provision. If the opportunity for refunds is removed our policy would call for a periodic referendum every 5 years included in this legislation.

S. 918—FRESH MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

Legislation to provide for mushroom promotion and research program contains an upfront referendum, but should be amended to include a continuation referendum every 5 years, if no refund provision is to be included in the final bill. The number of percentage

of the voters to request a continuation referendum also should be changed from 30 percent to 10 percent to be in line.

S. 1194—FRESH LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT

The lime promotion legislation should be amended to provide for an upfront referendum and either a refund provision or a provision for continuing a referendum every 5 years. This percentage of those requesting the change should also be downgraded to 10 percent.

OTHER PROMOTION AND RESEARCH PROGRAMS

There has been discussion of other promotion and research programs for commodities such as honey and fruits and vegetables. Our policy would support these proposals only if they provided for producer control as specified in our policy statement.

Mr. Chairman, the committee may want to consider developing generic commodity promotion legislation that would establish overall guidelines for development of commodity specific promotion and research programs. If pursued this legislation should include provisions that provide protection for producers and assure producer control of the program as outlined in our policy position.

CONCLUSION

In conclusion let me say, AFBF supports allowing producers to establish programs that provide research and promotion of their products. Control of these programs must remain in the hands of the producers. We feel that the policy position our members have established will provide for strong promotion programs under producer control.

Thank you for the opportunity and I will answer any questions I can.

[The prepared statement of Mr. Whisenhunt appears at the conclusion of the hearing.]

Senator BOREN. Thank you very much and we will receive your full statement for the record. And the specific suggestions that you made in regard to specific bills, as well as general policy guidelines that you have given. That you think the other bills should also be very helpful to us in our deliberations. We appreciate them very much. Mr. Senter.

STATEMENT OF DAVID SENTER, NATIONAL DIRECTOR, AMERICAN AGRICULTURE MOVEMENT, INC., WASHINGTON, DC

Mr. SENTER. Thank you, Chairman Boren. I am David Senter, National Director for the American Agriculture Movement (AAM) and we appreciate the opportunity to be here to present AAM's views on commodity promotion programs.

AAM GENERALLY SUPPORTS THESE CHECKOFF PROGRAMS

AAM generally supports these checkoff programs and would hope that the Senate committee would begin to move to put in place some basic criteria that would apply to all of the different commodity and checkoff programs so they are consistent, and so we

would have basic guidelines that programs have to meet before they are put in place.

WE DO NOT SEE COMMODITY CHECKOFF PROGRAMS AS SUBSTITUTING FOR PRICE

I guess upfront I would like to say that we do not see commodity checkoff programs as substituting for price. We believe that a fair price is the main goal of our organization for programs, but check-off programs do work well to promote the program and build market access.

We believe that the program should be voluntary so that producers can in fact apply for a refund with a minimum of redtape.

We believe that those that are concerned that a voluntary program will not work should look at the current cotton checkoff program. They should look at the various State programs which in my opinion have worked and have gained producer support.

On the other hand, if a program gets off-track, and begins to waste the producers' money, then the refund provision is a check and balance in the program. A case in point of several years ago was Cotton, Incorporated, which in our opinion did get off-track and wasted money through high salaries, consultant contracts and other abuses. And a high number of farmers registered their disapproval by requesting a return of their money, forced major changes in that program. Today it is a well-run program—Cotton, Incorporated, does a wonderful job working for cotton farmers, and it is a good investment that is widely accepted. We believe this is a case in point where that if it had not been for the refund mechanism, program abuses may have continued.

REFERENDUM

We also believe that the referendum should come upfront. When a producer is told or asked to pay for a program, they should have a voice in a referendum to determine whether that is implemented or not. AAM has always supported producer referendums on both commodity programs, as well as checkoff programs.

APPROPRIATE USES FOR THE PROMOTION FUNDS

We believe also that appropriate uses should be clearly spelled out as to what the promotion funds can be used for. We believe that the funds should not be used to relieve processors from having to budget for retail advertising. And, there should be absolutely no use of promotion funds for political or lobbying activities, either here or abroad. That prohibition should apply to a national promotion program and to any State programs that allows checkoff funds to be used for lobbying activities.

COMMODITY CHECKOFF SHOULD APPLY AT ALL POINTS OF SALE OF THE RAW UNPROCESSED PRODUCT

AAM believes that the commodity checkoff should apply at all points of sale of the raw unprocessed product. The beef checkoff already applies at all points of sale and we are concerned that producers are being asked to pay the price to promote a product that is going to benefit many throughout the system. In the case of soy-

beans and other commodities, you do not go to the grocery store and buy a bag of soybeans, you buy a processed product. And so we believe that those that are buying and selling the raw unprocessed product should all pay an equal amount with the producers throughout the system.

COMMODITY PROMOTION BOARDS

Finally, when it comes to the commodity promotion boards, our groups sitting at this table each have soybean farmers as members. We represent soybean farmers as well as the Soybean Association does. So we believe as a final check and balance in the system that on the board, each one of the five largest general farm organizations should be allowed to nominate a soybean farmer to be on that board. That way we will have full access to the information. You know when you are talking about \$60 million going into a commodity organization, that can pay a lot of overhead costs that our groups do not enjoy.

And so if we had a representative on the board, then we would be comfortable that in fact the checkoff money is being used in research and promotion as intended and can help make sure that our members support continuation of the program under future referendum. Thank you, Mr. Chairman.

[The prepared statement of Mr. Senter appears at the conclusion of the hearing.]

Senator BOREN. Thank you very much, Mr. Senter, for your very clear and excellent testimony. Senator Fowler has also joined us and also is on a tight schedule this morning. I would like to just defer for a moment and allow Senator Cohen to make any statement that he would like to make on the legislation of particular concern to him, and then we will come back to general questioning of the panel.

It is a pleasure to have Senator Cohen with us this morning. We sit next to each other in another committee, the Intelligence Committee where he is vice chairman and I have the privilege of working with him in that context. We welcome you to the Agriculture Committee this morning.

STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM MAINE

Senator COHEN. Thank you very much, Mr. Chairman. I was going to comment on that fact myself that Senator Boren and myself spend perhaps 60 percent of our time working on the Intelligence Committee and have a fairly close working relationship. I also would note that Senator Fowler, who is here, used to serve on the House Intelligence Oversight Committee. I do not want anyone in the audience to draw any implications between the intelligence activities of this country and the farming issues that we have to contend with. I think they are equally complex. But I must say that the more that I work with Senator Boren, the more impressed I am with his mastery, not only of intelligence matters, but also of farming issues which I think may be more complex than the intelligence issues that we are confronted with.

Senator BOREN. We mentioned Intelligence Committee because we know it would be reassuring to all of you to know that Congress has an Intelligence Committee. Many suggest that is a contradiction in terms—

Senator COHEN. Well, now they say intelligence oversight really is what they call an oxymoron, but let me say that I regret that I will not have an opportunity to hear the testimony of two of my constituents, Arnold Roach and Mike Corey, who are here from the State of Maine and can perhaps give a much more detailed testimony for the need of the Potato Research and Promotion Act Amendments of 1989 (S. 836).

Senator Mitchell, myself and a number of our colleagues on April 19, 1989, introduced this measure, and it basically provides for three things. It would make mandatory the assessment for the Potato Research and Promotion Board—it currently is voluntary. We have a very high rate of participation, some 95 percent rate of participation. Unfortunately, roughly 5 percent of the growers request a refund of that assessment which accounts for about 15 percent of the revenues involved. It seems to me and many of my colleagues fundamentally unfair to have everyone in the potato business benefit from the promotion board's activities, and yet not pay a fair share as well.

We would support making this a mandatory program. I know there may be some opposition from the Department of Agriculture. There may be some opposition from some farm groups, but we do have a fairly extensive precedent in the field of dairy, beef, and pork products. The promotion boards involved in those particular industries all have mandatory assessments.

Second, we would apply the assessment to foreign exporters. It currently does not apply to foreign exporters, even though they benefit from the program itself. This particular promotion board does not specify: "let us consume just American grown potatoes or potato products," but generally promotes the consumption of potato products without the designation of which country. So on the one hand, foreign producers benefit from the promotion activities of this board. So it seems only fair that we apply it to foreign exporters as well. And we do have precedent here again as the beef, pork, and honey boards have a similar provision.

Finally, we would waive the requirement for an automatic referendum. This is very time-consuming, very costly and we would have a 10 percent requirement as a catch-all here. If 10 percent of the growers and participants who wish to have a referendum on this matter, then the Secretary could call for it. Those are the three key points of the legislation and I would hope that the distinguished chairman of the subcommittee would be supportive of them.

[The prepared statement of Senator Cohen appears at the conclusion of the hearing.]

Senator BOREN. Thank you very much, Senator Cohen. We appreciate your taking time to come in and express your personal interest in this legislation and as you have indicated, we will be hearing more specifics from witnesses later in the hearing this morning. But we know you are on a tight schedule and it is indicative of your strong interest in this matter in that you would take time to

be with us this morning and step out of the other committee to be here, and we appreciate your coming very much.

Senator COHEN. One final point if I might. In terms of applying this to foreign growers as well, or importers, they would be allowed to have membership on the board itself which would allow them to have some say in terms of how this money is going to be spent. So that was part of the compromise in applying this to them.

Senator BOREN. Thank you very much. We appreciate your statement. We also are receiving a statement from Senator Mitchell for the record and we hope to be able to move this legislative package expeditiously after the committee members have a chance to absorb the information from the hearing today. Thank you very much.

Senator Fowler, are there any opening comments you would like to make? You have also indicated you have some questions you would like to address to the members of this panel. I know you are going to have to leave before I will be leaving, so if you want to proceed ahead with your comments and your questions for this member of the panel, please do.

Senator FOWLER. Mr. Chairman, I appreciate again, like Senator Cohen I have to say to my constituent James Lee Adams from Georgia, who is on the next panel and to you, I have to speak to the Georgia Governor's Honor's program, all the high school kids over the telephone down in Valdosta, Georgia at 11:30. I do have a prepared statement for the record if I may enter that.⁴

As you know, Chairman Boren, I have introduced legislation to establish a pecan marketing order, also legislation joining my colleagues on behalf of soybeans and honey as well as making some needed improvements, I think, in the cotton program. Mr. Fred Beshears is here and he is the president of the Federated Pecan Growers, but he is on the next panel. Can I just ask him about three questions, 3 minutes before his testimony, if you will allow that?

Senator BOREN. Mr. Beshears, would you like to come up and join the other gentlemen at the table?

Senator FOWLER. I know this is very unusual for which I thank the chairman and then I will get out of everybody's hair. But Mr. Beshears, what I need to know is just, for the record, is honest and straightforward, and that is, how have the pecan producing States reacted to our legislation? Are they supportive of these efforts to establish a market order?

Mr. BESHEARS. Yes, sir, in my briefcase I was going to submit it for the record later. I have letters from all 11 State and regional associations that are in full support of our program that you and Senator Boren have put into the Congress.

Senator FOWLER. Are there any formal marketing tools that growers can now use to market pecans?

Mr. BESHEARS. We have a voluntary plan, the National Pecan Marketing Council, which has certainly done good work but is limited to funds because of several reasons, but other than that that is the only program we have now.

⁴ See p. 2 for the prepared statement of Senator Fowler.

Senator FOWLER. What about the shellers, are they supportive of the checkoff?

Mr. BESHEARS. Yes, sir, they voted virtually unanimous to support this plan.

Senator FOWLER. So the industry is together?

Mr. BESHEARS. Yes, sir, most definitely.

Senator FOWLER. For once?

Mr. BESHEARS. Yes, sir, that is saying something for the pecan industry, let me tell you.

Senator FOWLER. My commendations to the pecan industry and the work that you have done in your leadership position of bringing this all together. Mr. Chairman, I think it is the sleeping giant I believe of Georgia agriculture, and if we can have this small assistance in this highly competitive world, I believe, we will pop the rag as we say in my part of the country and make some things happen.

Thank you, Mr. Beshears. Thank you, panel, for allowing me to be an interloper.

Senator BOREN. Thank you, Senator Fowler. Mr. Beshears, thank you for submitting out of order to this tough cross-examination from the Senator from Georgia. After he leaves I will make some comments about the superiority of Oklahoma pecans, peanuts, and other products. We have had a long running discussion between Oklahoma and Georgia on some of these matters.

Senator FOWLER. Please let me leave first.

Senator BOREN. I will wait until he is safely gone before I get into these matters.

Senator FOWLER. Thank you.

Senator BOREN. Thanks for coming by, Senator Fowler. Let me return to our panelists and again thank you for your indulgence, allowing others to enter in. I have found it a most difficult thing in trying to fit the schedules of 100 Members of the Senate to conduct business in an orderly fashion. It is probably, I do not know, probably a good thing the civic students do not watch the way in which we do work in these matters. But it does all sort itself out, and the hearing record will be considered, I assure you, by all the members of the committee before we act on this legislation, and your testimony is very helpful to us.

Let us go back and maybe I can address this to all three of you. I understand the basic thrust of wanting to have programs that are essentially voluntary. I understand the hesitancy about mandatory programs, but we have also heard concern here expressed about free writers, about imported products, particularly in those situations where there is open access to our markets and much of the marketing is generic, as Senator Cohen has said, does not specify American grown potatoes, for example.

How do we deal if we do not have programs that have some sort of a mandatory provision—how do we deal with and how serious do you think the—what we might call it the free-rider or in particular the imported product? How do we deal with that problem or is there a way to deal with it short of a mandatory approach?

Mr. LYMAN. I think there is a way to deal with it Senator. One of the interesting things is ASC committee votes are done by mail. If we really want to involve the producers, we should vote on these

referendums by mail. The system is there. We know exactly how to do it. Senator Cohen is saying that 95 percent of the potato producers support it. Maybe what we need to do is take a percentage and say if you can achieve 80 percent or beyond that it would be a mandatory program. It seems to me that if we are talking about a referendum, we should be talking about in percentage of the people that voted to approve it the first time. And if we go and we are actually interested in involving the producers, we will considerably expand the amount of people that will participate, if we do the referendum by mail. And we can make a percentage out there that would bring everyone in, if we could achieve a certain level.

Mr. SENTER. Senator Boren, over the years, as you are aware, AAM has put forward various mandatory programs. When we have put them forward, without fail, the commodity groups have come off the wall against them. But they want a mandatory program when it deals with money. So what we are saying is that the producers out here that are going to be paying the bill. We just have to make sure the check and balances are built into the program, so that they do what they are intended and are not permanent, from now on to raise millions of dollars to be used for all kinds of different purposes.

So you see a lot of groups want mandatory on this money program, but on farm programs they say they have to be voluntary, or we do not like them because we are independent farmers. So the issue cuts both ways, but I would agree with Mr. Lyman that if it was built into the referendum, that if say 80 percent, two-thirds, I do not care what percent is put in, but if it is approved by that number of people it becomes mandatory. And if it is a smaller vote, it is voluntary, then they are going to have to prove their worth in order to move up and make everybody across the board pay.

Senator BOREN. Thanks. Mr. Whisenhunt, any comment?

Mr. WHISENHUNT. Yes, I would like to speak. Of course, some of these are hypothetical, especially on a nationwide basis, but I have been involved in our State checkoff in soybeans in Arkansas and I can relate to it. We have had a good program. It was a State legislative checkoff and we had participation up around 98-99 percent for many years, even though we increased the amount, very efficient well run.

But as I worked with the American Soybean Development Foundation which is the national checkoff program, even though it is made up of States, we found that there were certain States that would never come into the program. And so you had States where many of the farmers there would have loved to have participated in the legislative checkoff program, but were not able to.

We also have the concern of the ship going awry and the way to bring it back to keel. That is the reason that we in working with the soybean legislation said we had to have a periodic referendum. This is a mechanism. We were also concerned about the percentage that was first proposed, I believe, 30 percent, and we said that is unrealistic. Because we have seen the good that the soybean program has done and the cotton program has done on a national basis, because it is a widespread commodity as far as growth and use, that we feel that it is almost imperative for the farmers to have this kind of promotion for them.

So in working with them, we have compromised in areas, and the Soybean Association did. I think it is a classic example of where organizations can get together, both a general organization such as Farm Bureau that has to realize that there are other commodities that we have to be concerned about. But balancing it all, work with commodity specific and with the leadership that they have and with the quality of staff, I think it all showed itself in being willing to compromise for the common good. And if we can get these principals that I have outlined, that Farm Bureau has espoused, I think we are going to protect the interest of the individual farmer through the periodic referendum, and yet make it fair play.

We are talking about lots of money, but as you see, the programs that have worked in soybean worked throughout the world. And the opportunities they have. They need it and it would be the greatest thing that could happen to the soybean farmer. I think the guiding principle on all of the commodities would work very well.

Senator BOREN. Thank you very much. I noticed, by the way, in your testimony you talked about limiting the use of the checkoff funds for the promotion market and development research. You mentioned grower education. I did not notice any mention of consumer education. What is the Farm Bureau's position in regard to consumer education?

Mr. WHISENHUNT. Promotion is that part that—

Senator BOREN. So that is what you really—you assume that that included consumer education?

Mr. WHISENHUNT. Yes, the grower education, we did not want to take money and go out here and try to influence our growers with money and personnel to try to say, you really need to vote. We do not want to even lobby the growers. We want to let them simply get the information of the money spent, what it is being spent for, and it was that part of it.

Senator BOREN. I understand what you are saying. Consumer education is promotion, the market promotion in terms of your definition?

Mr. WHISENHUNT. Yes, sir.

Senator BOREN. Again, I thank all three of you for appearing this morning, and we will receive your full statements and give attention to the total comments that you have made. You have laid out for us some very good general policy guidelines, I think, that will be helpful to us as we look at the entire package and the variations that exist within the different bills. Thank you very much for being with us this morning.

We will now call up our last panel of the morning, Mr. James Lee Adams, president of the American Soybean Association from the State of Georgia; Mr. Arnold Roach, member of the National Potato Council; Dennis Zensen, Chairman of the Mushroom Council; Mr. Fred Beshears, the Federated Pecan Growers; and Mr. Bruce Heiden of the National Cotton Council. We welcome all of you and welcome your comments, especially related to the specific bills which relate to your commodity programs.

I will begin in the order in which you are seated. We will go down and hear testimony from all of you, and again in the interest of time, because we do hope to end around noon, if you could just

summarize your statements for us and try to stay within approximately 5 minutes, and then we can have individual questions.

Mr. Beshears, do you wish to begin? You have already made some of your statement and responses to those difficult questions that were proposed to you by Senator Fowler.

**STATEMENT OF FRED BESHEARS, PRESIDENT, FEDERATED
PECAN GROWERS, MONTICELLO, FL**

Mr. BESHEARS. Thank you, Mr. Chairman and members of the committee.

BACKGROUND

The pecan industry appreciates this opportunity to address this subcommittee and have you consider Senate Bill 962, the Pecan Promotion and Research Act of 1989. My name is Fred Beshears, and I am president of the Federated Pecan Growers of the United States, which represents all the Nation's growers. The original Federated Board was formed in the early 1900's and had its present organizational structure since the 1930's. Our board is made up of representatives from each of the 11 State and regional pecan associations representing the 16 pecan growing States.

**WE DECIDED TO STUDY HOW WE MIGHT IMPROVE PECAN MARKETING IN
OUR INDUSTRY**

In Natchez, Mississippi, during our annual board meeting in March of 1988, we decided to study how we might improve pecan marketing in our industry. The following May there was a pecan marketing conference held in Albany, Georgia, chaired by U.S. Senator Wyche Fowler, with a panel of food experts and marketing specialists. Testimony was given by pecan growers, processors, scientists and consumer representatives. The conclusion of that panel was that the pecan industry has serious marketing problems and needs to develop a national marketing plan. During the summer of 1988, many meetings were held throughout the Pecan Belt from Georgia to California, with growers, shellers, handlers and processors in attendance. One startling fact soon became evident. For the past 3 to 4 years our industry was collectively losing money. Another problem we discovered is that pecan production in this country is increasing faster than the population is growing. Mexico has many acres of young pecan trees which, in 3 to 5 years, will be capable of producing enough pecans above their own domestic consumption to export 100 million pounds to the United States. Those additional pecans will increase the domestic supply here by over 30 percent, versus the 5 to 10 percent that is currently being exported to the United States today. This tremendous increase in supply, plus increased domestic production without long range planning, will be catastrophic to our entire industry. Also, our competitors in the nut industry all had national marketing groups and were developing new uses and markets, increasing market share and exporting large percentages of their crops overseas. Two of the larger groups, almonds and walnuts, are currently spending \$15 million and \$10 million, respectively, on market promotion and development. After we studied the relationship between their production,

prices and inflation over the last 17 years, we became convinced that marketing programs had been very instrumental in helping the almond and walnut industries.

PRODUCTION AND PRICES

According to USDA's statistics in the last 17 years [1970-1987], almond production is up 342 percent with a 214 percent increase in prices. Walnut production is up 128 percent with price up 103 percent, while pecan production is up 69 percent with only a 68 percent increase in price, and the big kicker is that inflation is up 189 percent over this period according to the Government figures.

The above figures tell us that the almond and walnut industries have done an excellent job for their growers and processors, while the pecan industry has lost two-thirds of its purchasing power with its pecan income; not a good sign of a healthy industry. Lastly, we have no national entity to represent all facets and aspects of our industry.

NATIONAL MARKETING PLAN

With these facts and other information we learned, we held a meeting in Byron, Georgia, in September of 1988, and decided to develop a national marketing plan. A committee went to the National Pecan Shellers Association meeting in September of 1988 in Colorado Springs, Colorado. The shellers are the processing arm of our industry. We asked for their help and to work with the Federated in developing a plan for advertising and promoting pecans. Between October 1988 and February of 1989, we met with the shelling industry leaders and came up with a plan which was satisfactory for all facets of our industry. At their midwinter meeting in February of 1989, the National Pecan Shellers Association approved and offered their support of the basic plan that is Senate Bill 962 today. The National Pecan Shellers Association represents 85 percent of the shelling industry in the United States. Without their help and support, we would not be here today. During the next 45 days the plan was discussed and approved by all 11 associations at specially held meetings of the Federated held in conjunction with the annual meetings of the Southeastern Pecan Growers Association held at Hilton Head, South Carolina and the Western Pecan Growers held at Las Cruces, New Mexico. At each of the meetings the support of all the growers was virtually unanimous, as everyone realizes our industry must begin to work together and move forward if we are to remain viable in the future. Shortly thereafter the bill S. 962 was introduced into the Senate by Senators Fowler and Boren.

THE PECAN INDUSTRY IS THE CADILLAC AND THE KING OF ALL NUTS

We know that the pecan industry is the Cadillac and the king of all nuts. Taste preference tests have shown that people prefer pecans as their favorite, or at least their second favorite, 90 percent of the time. With the trend toward natural foods, pecans are a natural, truly native American nut, high in protein, low in fats with those fats being unsaturated. They have zero cholesterol and are high in the minor nutrients we all need everyday. Our research

has shown that pecans have tremendous export potential. The almond and walnut industries are currently exporting 57 percent and 37 percent respectively, versus the pecan industry doing 2 percent. The average European eats approximately 15 pounds of tree nuts per year. While our average American eats only 3 pounds or less per year. With this kind of consumption and market in the other countries for our product, we are beginning to export a large percentage of our crop overseas.

Our industry feels that if we can have this bill passed into law it will be the first step toward restoring the financial health of our industry and can continue to supply the American people and, hopefully, other consumers around the world with a healthy and nutritious food product that has been around since our country was founded.

Again, we want to thank this subcommittee for taking this time to listen to our testimony and for considering this legislation vital to the pecan growers throughout the United States. I will be glad to answer any questions now or at any other time in the future. Thank you.

[The prepared statement of Mr. Beshears appears at the conclusion of the hearing.]

Senator BOREN. Thank you very much, Mr. Beshears. If there is any additional documents that you have with you—you mentioned you had letters from the various States—if you wish to submit those with your statement for the record, we will receive any accompanying documents you would like to submit.⁵ Thank you very much. Mr. Zensen.

STATEMENT OF DENNIS ZENSEN, CHAIRMAN, MUSHROOM COUNCIL, QUINCY, FL

Mr. ZENSEN. Mr. Chairman, thank you for the opportunity to speak on behalf of S. 918, the Fresh Mushroom Promotion, Research, and Consumer Information Act.

I am Dennis Zensen of Sylvan Foods which has mushroom farms in Florida and Pennsylvania. Today I am speaking as chairman of the Mushroom Council on behalf of what we believe is in the best interest of the mushroom industry.

Also here today in support of legislation is James Ciarrocchi, president of our industry trade association, the American Mushroom Institute. He will be submitting a statement for the record. Also, Senator Boren, I have been asked by one of your constituents, Virgil Jurgensmeyer in Miami, Oklahoma, to express his appreciation for your interest in this legislation and he has sent a letter he would like placed in the record too.⁶

Mr. BOREN. We will certainly receive it.

Mr. ZENSEN. In trying to keep with your request to keep things brief, I am going to throw the rest of this away and be very brief.

Mr. BOREN. I appreciate that. I apologize because they have sent a note over saying we may have a live quorum and vote on the floor pretty shortly, so that is the reason.

⁵ See pp. 176-185 for Pecan Growers material.

⁶ See p. 138 for the letter of Virgil Jurgensmeyer, J-M Farms, Inc.

Mr. ZENSEN. I would like to highlight just two areas which are covered in our prepared testimony. I will talk about them in a little different aspect.

WHY DO WE NEED THE RESEARCH AND PROMOTION ORDER FOR MUSHROOMS?

First, we are an industry made up of a few large and very many smaller producers. We already are national in scope, but we are very fragmented, disorganized, and our ability to ever be able to speak with one voice when the need arises, and an ability to achieve a more orderly marketing environment for our product. The order would in our opinion help greatly in both of these. For instance, 5 years ago, we competed for a retail shelf space with 100 or so other produce commodities. Now we compete with more than 200, and we are slowly but surely losing the retail shelf space.

WE NEED RESOURCES CONTRIBUTED TO BY ALL THESE SIGNIFICANT PRODUCERS TO ADDRESS THE CONSUMERS' CONCERN ABOUT FOOD SAFETY

Second, we need resources contributed to by all these significant producers to address the consumers' concern about food safety. Our industry, like many others, has a great deal of work left to do in this regard.

CONSOLIDATION IN OUR INDUSTRY

Third, in the past few years, we have experienced a wave of consolidation in our industry. Over the past 5 years, we have lost more than 100 producers. This does not sound like a lot, but considering we started with only 450, it is. We are losing what has been the backbone of our industry. The independently owned business, sometimes referred to as the family farm. We need to try and stop and even reverse this trend.

LEVEL OF SUPPORT

The next point would be to give you some idea of the level of support that we believe we have for the order within our industry. There is no doubt in our minds that because our need is so clearly established and because our referendum provision is upfront, we now have the overwhelming support of 175 or so eligible producers within our industry. Obviously, a few of these 175 growers do not support the legislation in its current form. Two of these producers account for 25 percent of our production. We have and will continue to work with these companies in a sincere effort to develop the order that we can all support.

INTEREST IN COMMENTS—SUGGESTIONS WILL MAKE FOR GOOD LEGISLATION

Also, I was very interested in some of the comments presented earlier by the gentleman from USDA and others and I think, as chairman of the Mushroom Council, and others in the industry will agree with me, with many of the comments and suggestions they made will, in fact, make our legislation a better piece than it now exists if we would take some of their advice. So we see no problem in working with them to modify the legislation. I believe most of

the people who testified earlier would be very comfortable with the Bill that we now have before you.

So we encourage your support and hope you can proceed quickly to do so. Thank you, Senator.

[The prepared statement of Mr. Zensen and letter dated June 16, 1989, from Produce Marketing Association, Inc., appear at the conclusion of the hearing.]

Mr. BOREN. Thank you very much. I think your point, and this will apply to several of you at the table, there were declining budgets that the USDA and some of the research fields, I think especially the new concern on the consumers about food safety, it becomes even more important that the commodity groups have an opportunity to bring resources to bear in this area in an effective way in terms of educating the consumer and conducting research that reassures consumers about food safety. So I appreciate your mentioning that. I think that is another important point.

I would gather, also, that if you have a situation where you have only, in some cases, one or two large producers and some relatively small concentrated industries, making up as much as 25 percent, and this could affect what would be a fair balance in terms of some of the comments made earlier, of somewhere you would have 80 or 90 percent approval for a mandatory program in terms of the free-rider situation. If you have a situation where that could only be one or two producers it would constitute enough to block a program. That certainly is going to have to be considered on an individual industry basis to see what the effect of that might be.

Mr. ZENSEN. I would hope USDA would do so. It seems to me the tone of the comment that I heard from both sides would indicate that should be very doable in our instance.

Mr. BOREN. Thank you very much. Mr. Adams.

STATEMENT OF JAMES LEE ADAMS, JR., PRESIDENT, AMERICAN SOYBEAN ASSOCIATION, CAMILLA, GA

Mr. ADAMS. Thank you, Senator. I am James Lee Adams. I farm soybeans, corn, wheat and peanuts and Georgia pecans down in Georgia. I am here today representing the American Soybean Association and 450,000 soybean farmers.

PROBLEM AND OPPORTUNITIES

We have a real problem as some of these other industries have in our industry. We have seen demand for our product, worldwide, increase by 4.5 percent a year. Yet at the same time our market share of what has grown domestically has been falling very rapidly over the last few years. We have gone from over 72 million acres a few years ago, go down a couple years ago below 60 million acres. We have seen somewhat of a return now with the high prices.

But we have a real problem, but even more we have some real opportunities in the soybean industry. We pretty well dominate the United States and world markets for vegetable oils and proteins. U.S. consumers use over 35 pounds of soybean oil yearly and consume and use all sorts of soybean products daily. These include products such as cooking oils, salad dressings, antibiotics, adhesives, food toppings, mayonnaise, cake mixes, wallboard, pet foods,

newspaper inks, and importantly, feed for the livestock, poultry and aquaculture.

COMPETITION

But as I said earlier, this world demand is growing. But we do have some problems in the fact that competition is growing even faster than the world demand and we are losing and getting squeezed out.

Two major competitors, Brazil and Argentina, for example, have captured the majority of the 15 percent increase in world trade for soybeans and soybean products that occurred over the last 10 years.

EXPORT EXPANSION

We have some tremendous opportunities. Just recently I was in the Soviet Union meeting with the Russians and they told us in the long term within the next 10 years, they will need the equivalent of one-half of the U.S. soybean crop—1 billion bushels—within the next decade to sustain demand for livestock and vegetable oil. The question we soybean farmers have to ask ourselves is, will this product be furnished from the United States or will it be furnished from other countries overseas? And quite frankly the question is being answered, I think, when we either pass this bill or neglect to pass this bill. Because it is going to take about \$600,000 to open up our office in Soviet Union and we have an opportunity to be there to make a real impact and make sure that U.S. soybeans are the soybeans of choice, rather than our competitions.

Even though U.S. consumers, domestically, use more soybean oil than all other vegetable oils combined, 85 percent of consumers cannot identify the fact that they are using soybean oil. So we are very vulnerable from a domestic point of view to encroachment of particularly overseas, imported rapeseed and canola type oils to this country.

NUMEROUS NEW USES FOR SOYBEANS NEED ADDITIONAL RESEARCH

We have tremendous new uses being developed right now that need further research to be refined. For example, we are talking about soybean ink. I think is a replacement, and I hate to say this to you from Oklahoma being a petroleum base State, but we have an opportunity to replace some of the petroleum base. From a biodegradable point of view and from an environmental point of view it is going to be very beneficial. I think in the long run, we would be preserving oil for oil uses that are really going to count in the future too. So we have an opportunity there. A 50 to 60 to 70 upwards of 100 million bushels on just this one item alone if we can fully implement it.

GOOD BREEDING PROGRAM NEEDED

Other types of uses are also very important to us that can be developed. We have South American soybeans that are now perceived to be a high quality soybean than the particular upper midwestern soybeans being grown because they are high in oil and protein content. We need a good breeding program of the upper portion of the

Midwest to make sure we can raise that oil and protein value within that soybean so they can be competitive worldwide.

WE NEED TO GET YIELDS UP

Across the Southern area, including your State, we need to get yields up. Now we have the tools available to do this with biotechnology that is available to us. We are already completing a genetic map of the soybean. We will be able to put in, as you alluded to earlier, they are resistant to the soybean to insects. We have had some estimates from the University of Georgia. They can eliminate 95 percent of use of chemicals in the soybean industry from a pesticide point of view with a good type breeding program. We have to have the funds to do it.

CHECKOFFS

We have been working soybean farmers nationwide in trying to develop a program to put this together. 18 percent of the soybeans in the United States were not checked off at all. And that gave us a real funding problem as far as being able to get the funds accumulated to really do what we need to do.

DEVELOPMENT OF S. 919

We have had meetings all over the United States, hearings. We have had interviews. We have hired a national political consulting polling firm, a reputable firm. They have polled 3,400 farmers and we have designed a program based on those polls and based on hearings of the type of program the farmers want.

KEY POINTS OF S. 919

Soybean farmers told us to remember several very important key principles in developing the proposal. Number one, they want the funds to be invested to protect and boost soybean profits. They want to keep it fair by assuring that everyone who benefits pays. Seventy-six percent of the farmers nationwide are against refunds to those who benefit but refuse to pay. We have a problem in some areas because again I hate to say this in large outside, maybe even foreign investors coming in and buying up farmland in the United States. They are refusing to, in large degrees, to participate in the voluntary checkoff programs. You have real problems there. They again will get benefits, but they are refusing to pay because there is so much money on the table.

MAKE SURE THAT FARMERS RUN THE PROGRAM

We want to make sure that farmers run the program. I think the program we have designed does that. We want to ensure that 50 percent of the funds stay within the State under the State control or that the farmers within that State for research programs primarily and also any type of market promotion programs they feel necessary within the State. We want to strictly limit administrative cost to 5 percent, and these are the items that the farmers have told us.

HAVE A FARMER REFERENDUM

And lastly, have a farmer referendum. Allow time for at least two crop-years for the program to work to prove itself to the farmers. Make the program nonmandatory up to that point of time. Allow the farmers to get their refunds upfront if they do not like the program, but then have the vote. Then let the farmers decide what they want to do.

We have had these polls again. I think we are over having support out there. Farmers want particular items to make sure we expand exports in countries like the Soviet Union, India and China, promote new uses, expand domestic markets, and protect them, and also by promoting help for soybean oil and research to cut farmers cost. It is an aggressive program. We have soil marked we are developing for products that have soybeans in them. I think it is going to be very beneficial, similar to what cotton programs have been very beneficial to the cotton producers.

We are excited about this opportunity. We look forward to working with you and your committee pushing this legislation through.

[The prepared statement and attachments of Mr. Adams appear at the conclusion of the hearing.]

Mr. BOREN. Thank you very much for your very interesting testimony and the range of the kind of activities that you are talking about, including the developing of other commercial potentials, which I think are a very interesting subject. In my State, our oil production keeps declining. We are a high cost producer and many of our wells are old and maybe as our petroleum production declines, our soybean oil related production can go up and take up some of that slack.

Next we have Mr. Roach, a grower from the State of Maine, and Mr. Corey, vice president of Legislative Affairs for the National Potato Council.

STATEMENT OF ARNOLD ROACH, MEMBER, NATIONAL POTATO COUNCIL, SYMRNA MILLS, ME, ACCOMPANIED BY MIKE COREY, VICE PRESIDENT, LEGISLATIVE AFFAIRS, NATIONAL POTATO COUNCIL

Mr. ROACH. Thank you, Mr. Chairman. I am here as a grower from the State of Maine. I am accompanied by Mike Corey who is vice president of Legislative Affairs for the Council.

Senator BOREN. Glad to have both of you here.

Mr. ROACH. So I will make a brief statement for the Potato Council, but Mr. Corey may want to make some statements too, with your permission.

Mr. BOREN. All right.

Mr. ROACH. Mr. Chairman, my name is Arnold Roach and I am a grower from the State of Maine and I deeply appreciate the opportunity to appear before your subcommittee on behalf of the potato growers across the country. I have a prepared statement for the record, and I will do my best to summarize it in the short time here.

1971 ACT

Mr. Chairman, I am very familiar with the Potato Research and Promotion Act of 1971 and the contributions it has made to the potato industry in this country. I had the opportunity to serve on the Potato Board on the Council at the particular time when they were putting it into effect and was one of those who worked to get it and am very proud of what we did at that particular time, and the accomplishments that it has done to the potato industry.

One of the great accomplishments of this program, it has drastically changed the consumer's perception about potatoes. Consumers now are generally glad potatoes is one of the best health foods that a person can eat. They no longer think of potatoes as a problem contributing to obesity. Since 1971, as one might expect, there have been changes in the way potatoes are produced and marketed. It is these changes that prompt us to ask you for support our request to amend the 1971 law. The 1971 law needs some changes so that the industry can continue its successful research and promotion program.

WE ARE REQUESTING THAT THE 1971 ACT BE AMENDED TO ACCOMPLISH
TWO BADLY NEEDED CHANGES

Briefly we are requesting that the 1971 act be amended to accomplish two badly needed changes:

First, we request an amendment to give the Potato Board authority to assess potatoes that are imported into the United States. This change would make our program compatible to other industry research and promotion programs such as beef and pork. The reason here is straightforward. The market for the import of potatoes is enhanced just as much as the market for domestically grown potatoes. Therefore, we think those that import potatoes into this country should pay their fair share of the program cost.

Second, we would like to eliminate the refund provisions in the current law. Again, it is simply a question of equality. Those of us who benefit from the program should pay their fair share of the cost. The way it is now, a few large producers are refunding a disproportionate share of the total assessments collected. In other words, they are getting a free ride. The requested amendment would correct that inequity.

AMENDMENTS BE PLACED IN EFFECT WITHOUT A REFERENDUM

Finally, Mr. Chairman, we are asking that these amendments be placed in effect without a referendum. Potato growers strongly support the current program and want the suggested changes. Twice in referendum for other purposes, they voted overwhelmingly in the area of 80 percent, I believe, in favor of the industry support of research and promotion programs. We think it is unnecessary that they go to the very large expense of conducting a referendum among the more than 13,000 potato growers in the United States.

RESPONSE TO THE USDA'S CONCERN ABOUT THE FEE IN CANADIAN
IMPORTS

Mr. Chairman, that summarizes my request. There is one thing that I would like to mention while I have the opportunity. In response to the USDA's concern about the fee in Canadian imports. Just prior to the International trade bill that was signed by Congress, the University of Maine conducted an international trade seminar in conjunction with its counterpart in the province of New Brunswick and it was heavily attended. I participated in this program as one of the panelists. The program was heavily attended by the Ministry level in Ottawa and all the provinces. There were many more Canadian potato farmers and dealers than there were those of us from the State of Maine.

But at this seminar that the University of Maine conducted in Maine on their campus, it was brought up many times by the Canadians that they were asking us to let them help participate in this program. It was unusual. They said that they thought it was a great program. They had watched it very closely and were trying to copy some aspects of it. And they wanted to participate with us in the program because they were saying that they felt that they were getting a free ride.

So I would be glad to answer any questions that you or your subcommittee may have.

[The prepared statement by Arnold Roach and Mike Corey appears at the conclusion of the hearing.]

Mr. BOREN. Is there a provision for representation of some kind of foreign producers or input of foreign producers?

Mr. ROACH. My interpretation of it would be, it would be an importer. It would be a representation from the importers. I think there is only around 20 importers that are directly involved in the import of their Canadian potatoes. And one of these people would be on it and I think they should be. We have a public member on the board and it has been a great success. The public member we have has just been fantastic.

Mr. BOREN. Good. Thank you very much. Mr. Corey, any additional comments you would like to add?

STATEMENT OF MIKE COREY

Mr. COREY. Thank you, Senator. I will be very brief. I too want to echo the success of the Potato Board in the advertising. I think it has been a very successful program. The one area that I would like to address is the area that was brought up by the Department of Agriculture on the fairness of assessing imports. We think that we have a very fair formula. The U.S. producers are assessed on fresh potatoes going into U.S. processing plants. We are proposing that any processed form that comes across the border would also be assessed on what would be going into the processing plants in Canada. We cannot go to Canada and assess what is going into Canadian plants, but we can use the raw farm equivalents that are available through the Department of Agriculture.

Mr. BOREN. So you would meet the fairness test?

Mr. COREY. They will be paying the same amount that we would be paying. I just wanted to bring that out and thank you.

Mr. BOREN. Thanks very much. I assure you as you have seen this morning that Senator Cohen here in person has indicated his strong interest in this legislation. He is a person that I work with every day. Senator Mitchell has also contacted me to indicate his very strong interest, and I can assure you that the chairman of the subcommittee does not disregard expressions of interest of the Majority Leader or the vice chairman of the committee with whom I work with all the time. So we are going to take up this legislation. And their interest in it helped expeditious consideration of all of these proposals because I think it is very likely we will try to move in a package way in terms of dealing with all of these proposals. And their interest has been very strong and forceful in your behalf.

Mr. Heiden, we would be happy to hear from you.

**STATEMENT OF W. BRUCE HEIDEN, PRESIDENT, NATIONAL
COTTON COUNCIL OF AMERICA, BUCKEYE, AZ**

Mr. HEIDEN. Thank you, Mr. Chairman. I am Bruce Heiden, president of the National Cotton Council and a cotton producer from Buckeye, Arizona. The Council is the central organization of the U.S. cotton industry, representing cotton producers, handlers, and processors from the Carolinas to California.

**UNIFORM PROCEDURE FOR COLLECTING RESEARCH AND PROMOTION
ASSESSMENTS**

I sincerely appreciate this opportunity to present testimony in support of one of our industry's highest priorities—a uniform procedure for collecting research and promotion assessments.

REFERENDUM

The proposed legislation [S. 1313] would require the Secretary of Agriculture to conduct a referendum among cotton producers to determine if the majority of those voting approve eliminating the existing refund authority and the collection of an equal assessment on the Upland cotton content of imported yarn, fabric, and apparel and home furnishing products. If a majority of the producers approve the amendment, the refund authority for assessments collected on domestically produced cotton would be terminated and an assessment on imported Upland cotton and the Upland cotton content of cotton products would be collected and placed in escrow.

A second referendum would be conducted within 15-30 months among producers and importers who have paid an assessment. Unless a majority of producers and a majority of importers disapprove, the refund authority would continue to be suspended and assessments collected on imported products would be released from escrow and collection continued.

Subsequently, the legislation requires the Secretary to contact producers and importers every 5 years to advise that if 10 percent of those voting in the previous referendum make the request, a referendum would be held to determine if the amendment should remain in force.

The proposed amendment would continue to provide authority for the assessment rate to be established at a level of \$1 per bale plus up to 1 percent of the value at the first point of sale. The

value of the cotton content of the imported products would be established in a fair and equitable manner by the Secretary and the assessment rate would be the same as that for domestic production. The Secretary is also authorized to appoint importer representatives to the Cotton Board after consultation with importer organizations.

Mr. Chairman, the record of success achieved by the Cotton Research and Promotion Program since its inception is remarkable. Cotton's share of all fibers sold at retail for apparel and home furnishings has increased steadily since 1975. According to a respected independent market research firm, cotton's domestic market share advanced from 34 percent in 1975 to 49 percent in 1988.

THE FUTURE OFFERS BOTH PROBLEMS AND OPPORTUNITIES

While the cotton promotion program has been successful, the future offers both problems and opportunities. Currently, the Cotton Board retains between 65 and 70 percent of the assessment it collects, and of course, no assessment is made on imports. It is interesting to note that a majority of the producers who request refunds indicate that they are not dissatisfied with the program, rather they frequently cite reasons such as the following for their refund request:

First, financial problems, second, other growers in the area are getting refunds, and three, imports are benefiting from the research and promotion program.

The last two reasons, refunds and importers benefiting from the grower funded program, are troublesome matters of equity for most producers. It is understandable that participating U.S. producers would want other U.S. producers to pay their fair share of a program that benefits all. It is even more understandable that they would want to see the assessment made on imported Upland cotton and Upland cotton products.

The proposed legislation would, if passed into law and confirmed by referendum, simply require a contribution from all who benefit from the program, including importers, who enjoy a 40 percent share of the market being developed and maintained.

The program would be GATT consistent because the assessment rate for imports would be the same as for domestically produced cotton. We believe the proposed amendment meets the test of GATT Article III.A.

Some would argue the assessment should be voluntary. Unfortunately, importers would probably request refunds and the Cotton Board would record a deficit because the legislation requires reimbursement to all agencies who assist in administering the program. Other organizations have suggested that the assessment be voluntary for domestic producers and mandatory for importers, but that would seem clearly to violate GATT.

THOSE WHO CONTEND THAT CONSUMERS WILL ULTIMATELY PAY FOR THESE PROGRAMS

There are those who contend that consumers will ultimately pay for these programs. The assessment—which averages about \$2.60 per 480 pound bale—would be less than 1 cent on a pair of denim

jeans. Mr. Chairman, you can also be assured that the increased funds will be devoted to programs—not bricks and mortar or other overhead.

COTTON PRODUCERS NEED AND SUPPORT A WELL-MANAGED, ADEQUATELY FINANCED AND EFFECTIVE RESEARCH AND PROMOTION PROGRAM

Cotton producers need and support a well-managed, adequately financed and effective research and promotion program. Increased consumption will ultimately result in profitable marketing opportunities for U.S. cotton farmers, lower government costs for agriculture's price support programs, and a better product for consumers. Cotton's program was one of the first self-help promotion programs. In 1985 Congress authorized national promotion programs for beef and pork which include uniform assessments and assessments on imported products. The U.S. cotton industry respectfully requests your support for the opportunity to expand its program which has a proven track record, and we urge you to act favorably on the other research and promotion proposals which are the subject of this hearing.

Thank you for the opportunity to testify on this important legislation, and I will be happy to answer any questions.

[The prepared statement of Mr. Heiden appears at the conclusion of the hearing.]

Senator BOREN. Thank you, Mr. Heiden. We appreciate your comments very much. We appreciate the testimony that all of you on the panel have given.

Mr. Adams, let me ask one question. There was some reference by the USDA in the testimony today that they are working on some agreements on the soybean bill that seem to be close to agreement. Is that accurate?

Mr. ADAMS. Yes, sir. I think we have signed off on it. We are just waiting for AMS, the hierarchy to sign off on it. Hopefully, that is settled.

Senator BOREN. We look like we are moving pretty close in an agreement?

Mr. ADAMS. Yes, sir.

Senator BOREN. Let me say to all of you, I appreciate your testimony. We do have to talk to Chairman Leahy about the various proposals that are before us and in our committee. We have a strong interest in them as well. I know he hopes to see us move expeditiously in full committee, and it is my hope that we can get subcommittee action in the very near future, so that we can have timely consideration this year in Congress of all the proposals about which you have spoken today. We are going to do our best to do that and to move forward and your being with us today helps us a great deal in that regard.

So I want to thank all of you for being here and for your patience and understanding in the way we had to sort of move in and move out with members as they have been able to join us for part of the hearing today. Thank you very much. The hearing will stand recessed. We will receive for the record additional statements as I have indicated.

[Whereupon, at 11:50 a.m., the subcommittee adjourned, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

APPENDIX

PREPARED STATEMENT OF HON. GEORGE J. MITCHELL, A U.S. SENATOR FROM MAINE

Mr. Chairman, I appreciate your efforts to schedule this hearing on S. 836, the "Potato Research and Promotion Act Amendments of 1989."

Before discussing my legislation, Mr. Chairman, please allow me to make a few remarks about today's witness from the National Potato Promotion Board, Arnold Roach.

I'm pleased to have Arnold testifying for my legislation. He is one of Maine's leading potato farmers, knowledgeable about the business of growing potatoes and the activities and programs of the National Potato Promotion Board, serving as he does as a member of the Board. He's also a personal friend.

Mr. Chairman, I hope you and the other members of this subcommittee will favorably consider S. 836, which will provide the National Potato Promotion Board with improved methods of collecting assessments to conduct its promotion, marketing research, and consumer education programs.

I introduced S. 836 in April of this year. I'm pleased to have as cosponsors Senators Bond, McClure, Cohen, Pryor, Boschwitz, Levin, and Burdick. Similar legislation has been introduced in the House by Congressman Richard Stallings.

Under the authority and provisions of the Potato Research and Promotion Act of 1971, the Secretary of Agriculture appoints potato producers throughout the United States to serve on the National Potato Promotion Board.

The Board, which currently has 95 members, collects assessments on all potatoes used for human consumption and for seed for the purposes of conducting its wide-ranging activities that are designed to expand the markets for potatoes.

It is a successful program that has historically been strongly supported by growers in all regions of this country. The amendments proposed in S. 836 would strengthen the existing program.

First, S. 836 would allow for assessments of imported potatoes, fresh and processed, at a rate equal to that for potatoes grown in the United States.

Currently, assessments are not collected on imported potatoes. That is not fair because when the Board's activities to promote potatoes expands markets they do so for imported as well as domestic potatoes. By allowing assessments on imported potatoes, S. 836 would make the potato promotion program comparable to the beef and pork research and promotion programs which now have the authority to assess imported beef and pork.

Second, S. 836 would eliminate the refund provision under current law.

Historically about 4 percent of producers receive refunds for their assessments which represent about 15 percent of the total assessments collected. Again, this change is one of equity, because when the Board's activities to promote potatoes expands markets they do so for producers who pay assessments as well as those that don't. Making this change in S. 836 would put the potato program on a par with the beef, pork and dairy promotion programs which do not authorize refunds.

Mr. Chairman, S. 836 would authorize the Secretary of Agriculture to put these changes into effect without having to conduct a referendum of growers. The Board has expressed their hope that such a referendum can be avoided, given the cost and the historic support this program has had by 12,000 growers. I leave it to the subcommittee to judge whether that is a convincing argument.

In closing, S. 836 would make the assessment program more equitable, in addition to providing additional resources for the Board to carry on its activities. It would ensure that all those who benefit from the research and promotion efforts of the Potato Board pay their fair share of the programs' costs.

I believe this is good legislation. I look forward to working with you, Mr. Chairman, and the other members of the subcommittee in moving this legislation forward in the coming weeks. Thank you.

PREPARED STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM FLORIDA

Mr. Chairman, I thank you for the opportunity to appear before your subcommittee in support of Senate bill S. 1194, which I introduced on June 15. The legislation, if enacted, would help lime growers continue their past successful efforts to improve and expand markets for limes. S. 1194 would establish a program to allow for an assessment on imported limes at the exact same rate as that imposed on limes produced in the United States.

Lime growers now market their crops under authority of a Federal Marketing Order. Growers have used the marketing order since the early 1960's for two purposes: one, to place minimum quality standards on fruit shipped through interstate trade channels and, two, to advertise and promote their product. The growers fund the program by placing an assessment on each box of limes sold in interstate commerce. The two components of the marketing program complement each other. That is, it is difficult to improve the market for a product through advertising if the product is of poor quality.

While these programs have been very successful in the past, marketing conditions have now changed to the point where they are not working as well as the growers would like. In fact, the efficacy of the marketing order has been challenged by a drastic increase in the percentage of limes exported to the United States. Until recently, all the fresh limes consumed in the United States were produced in the United States, in Florida. Now, nearly half are produced in foreign countries. But the Agricultural Marketing Agreement Act, which gives the growers authority for their present program, does not allow for assessments on imported limes.

Therefore, S. 1194 establishes a program allowing for an assessment on imported limes equal to the assessment on domestic growers. This seems fair and reasonable; the market for imported limes is enhanced by the promotion program just as well as the market for domestic limes.

Mr. Chairman, my legislation is not designed in any way to be a trade barrier. There is absolutely no prohibition on the importation of limes into this country. Foreign growers will be included in the regulatory Board established under the bill, will be equal contributors to the research and promotion program, and most importantly, will be equal benefactors under that program.

Our legislation would help domestic lime growers continue their past successful program to improve the markets for their product, and make foreign growers partners in the new Marketing Order.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Kenneth C. Clayton and letters supplied for the record follow:]

Statement of Kenneth C. Clayton, Acting Administrator
Agricultural Marketing Service
United States Department of Agriculture
before the Subcommittee on Domestic and Foreign Marketing and
Product Promotion
Senate Committee on Agriculture, Nutrition, and Forestry

July 14, 1989

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to appear before your Committee to present the Department's views on research and promotion proposals for soybeans (S. 919), mushrooms (S. 918), potatoes (S. 836), pecans (S. 962), and cotton (S. 1313).

The Department has no objection to the enactment of these bills if amended to address the concerns outlined in the Department's reports to the Committee. Many of the changes recommended for consideration are designed to facilitate the administration and enforcement of these bills. We will be glad to work with committee staff to draft appropriate bill and report language to address our concerns.

Scope of Commodity Research and Promotion Programs

The Department currently oversees national commodity promotion and research programs for beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, and wool, lamb, and mohair. Authority exists for the floral and wheat industries as well, but programs are not currently in effect for those commodities. These national promotion programs, which focus on generic promotion and market development for their commodities, devote in excess of \$300 million a year to increase public and commercial awareness of their products. The Department has traditionally taken the position that we have no objection to industry self-help initiatives which are designed to help producers improve their position in the marketplace.

Legislative Guidelines for
Commodity Research and Promotion Programs

It is the Department's position that when research, promotion, and education programs are enacted by Congress, the long-run interests of the industry and general public are best served when such legislation contains the following features:

- national in scope representing the collective efforts of industry members nationwide;
- implemented through an upfront referendum by a majority of qualified persons voting;
- if implemented by delayed referendum, provision for refunds (either through direct monthly refunds or escrow) prior to issuance of the final order;
- opportunity for industry groups to reaffirm their support for these programs if requested by at least 10 percent of qualified persons;
- prompt refunds and confidentiality of refund information;
- appointment by the Secretary of board members from the industry;

- for programs that assess imports, provision for equitable treatment of domestic and imported commodities, importer representation on the boards and in referenda, and compliance with international trade agreements;
- prohibition on the use of assessment funds for false or misleading advertisement;
- prohibition on the use of assessment funds to influence legislation or governmental policy or action, except in recommending to the Secretary amendments to the order;
- direct enforcement authority by the Secretary, including the imposition of civil penalties and cease and desist authority;
- full reimbursement to the Department from date of petition for an order for costs incurred in administering the program, including startup costs, salaries of Department personnel, and the cost of conducting referenda;
- authority for the Secretary to suspend or terminate a program which the Secretary determines does not carry out the policy of the authorizing statute.

Full Reimbursement to the Department

Except for the pork and wheat programs, the Department has previously not been provided full reimbursement for costs incurred until after issuance of the final order. For newly authorized commodity research and promotion programs, the Department strongly urges the Committee to provide for full reimbursement of costs incurred by the Secretary in implementing and administering such programs, including costs for conduct of referenda. Although the Department has previously absorbed salary and other costs associated with the startup of these programs, the rapidly growing number of programs requires us to redirect staff resources from other critical program areas to handle the heavy volume of work associated with implementation. The Department can no longer continue to absorb these startup costs. Moreover, these are industry self-help programs and such costs should be borne by the affected industries, not by the general public.

Departmental Oversight of Commodity Promotion and Research Activities

The Department plays an active role in the oversight of federally- sanctioned commodity promotion and research programs to assure that they are administered by the boards in accordance with the authorizing legislation and the order. Annual budgets and workplans of the board are approved by the Secretary, and Department staff is in regular attendance at meetings of the boards. This ongoing and active oversight helps assure that industry-generated funds are expended for the purposes intended.

I will briefly discuss each of the proposals and address the Department's recommendations, beginning with the Soybean proposal (S. 919).

Soybean Promotion, Research, and Consumer Information Act
(S. 919) and Department Recommendations

S. 919, if enacted, would enable producers of soybeans to develop, finance, and carry out a nationally-coordinated program for soybean promotion, research, and consumer information. The program, which would be run by a United Soybean Board composed of producers, is expected to generate about \$60 million a year based on an assessment rate of one-half of 1-percent of the net market value of soybeans sold. A portion of such funds would be credited back to qualified state soybean boards, and a portion would be used for domestic and export promotion of soybean products, including market access activities and production research. The bill contains a provision for a delayed referendum, with such referendum to be conducted not earlier than 18 months nor later than 36 months after issuance of the order. Approval of the order in the initial referendum would require a simple majority of those voting. The Secretary would be required to conduct a suspension or termination referendum on request of 30 percent of eligible producers, with approval required by a majority of producers voting in the referendum. No provision is included for refunds under S. 919.

S. 919 also authorizes the Secretary to deal directly with violators of the Act by assessing civil penalties and issuing cease and desist orders for violations of any order or regulation.

The Department strongly urges the Committee to closely examine and adopt our recommendations relative to (1) providing refunds prior to the conduct of the referendum, including opportunity for periodic reaffirmation of the program; (2) reimbursement for all startup costs, including salary costs, prior to issuance of the order; (3) increasing the time for issuance of the order to 180 days; (4) expanding the prohibition on the use of producer assessment funds to influence governmental action or policy; (5) use by the United Soybean Board and the Soybean Program Coordinating Committee of the staff and facilities of established national, nonprofit, soybean producer-governed organizations; (6) elimination of market access activities, and (7) prohibition on States from conducting a referendum beginning on the date of issuance of the order and ending 18 months after conduct of the referendum.

We also understand the Department of Justice has identified constitutional concerns with S. 919 and will articulate those concerns directly to the Committee in a forthcoming report.

I would like to address in greater detail the Department's recommendation for elimination of the market access activities authorized in S. 919.

Market Access Provisions of S. 919 -- Section 5(e)(2)
authorizes the Soybean Program Coordinating Committee to develop

and submit to the Board for its consideration plans or projects relating to market access activities.

The bill defines "market access activities" as "activities or actions designed to identify and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products that do not involve actions designed to influence legislation in the United States". This definition would permit a wide range of actions designed to directly influence foreign government policies. It would also authorize the Board to seek to develop and implement plans and projects affecting the United States trade policy and to attempt to influence the policies of Federal Executive Branch agencies.

The Department does not believe that research and promotion boards, which are instrumentalities of the Federal Government, should be authorized to use producer checkoff funds to engage in the types of activities permitted under this subsection. Such international trade activities are, and should continue to be, confined to those Executive Branch agencies responsible for formulating and conducting the trade policy of the United States. Sanctioning such activities by the Board would not only duplicate existing government authorities but could also undermine or seriously impair the effectiveness of the government's trade policy and activities.

Moreover, the authorization of such activities by the United Soybean Board would establish an undesirable precedent, diluting or undermining the President's ability under the Constitution to determine the form and manner in which the United States will conduct its international trade policy.

On June 13, 1989, the House Agriculture Subcommittee on Wheat, Feed Grains, and Soybeans marked up and reported to the House Committee on Agriculture the companion bill (H.R. 2209), amending the market access provisions. The Department has made known to both the subcommittee and full Agriculture Committee its strong objections to the original market access provisions in H.R. 2209 to that amendment.

Estimated startup costs to be reimbursed to the Department for promulgation of the soybean order would amount to about \$150,000. Annual costs thereafter for administration and oversight activities would approximate \$200,000. Costs for conduct of the referendum are estimated to be \$190,000, excluding Government salaries.

Fresh Mushroom Promotion, Research, and Consumer
Information Act (S. 918) and Department Recommendations

S. 918, if enacted, would enable domestic producers and importers of fresh mushrooms to develop, finance, and carry out a nationally-coordinated program for mushroom promotion, research, and consumer information. The program, which would be administered by a 9-member Mushroom Council, is expected to generate in excess of \$10 million per year based on a maximum assessment rate of \$.02 per pound of fresh mushrooms, as specified in the bill. The bill contains a provision for an

upfront referendum, with such referendum to be conducted no later than 60 days prior to the effective date of the order. Approval of the order would require a simple majority of those producers and importers voting. No provision is included for assessment refunds under S. 918.

S. 918 also authorizes the Secretary to deal directly with violators of the Act by assessing civil penalties of not more than \$1,000 per violation.

The Department urges the Committee to give full consideration to our recommendations to provide (1) full reimbursement to the Department for all startup costs (estimated to be \$45,000 to \$50,000) incurred prior to the issuance of the order; (2) for a 60-day period for publication of the proposed order (rather than 30), and 180-day period (rather than 120) to give the Secretary sufficient time to review any comments received on a proposed order and conduct a referendum, (3) for an expansion of the prohibition against certain uses of assessment funds to include a specific prohibition against the use of such funds to influence legislation; and (4) direct enforcement authority to the Secretary, including cease and desist authority.

Enactment of S. 918, if amended, would result in reimbursement to the Department of \$45,000 to \$50,000 for all startup costs, including the conduct of the initial referendum. After the order is issued, ongoing administrative costs are expected to reach \$40,000 to \$50,000 annually.

Potato Research and Promotion Act Amendments
(S.836) and Department Recommendations

S. 836, if enacted, would amend the Potato Research and Promotion Act to: (1) eliminate the refund provision; (2) provide for assessments on imported tablestock, frozen, processed or seed potatoes; (3) provide for importer representation on the board; (4) extend coverage of the Act to the States of Alaska and Hawaii, and (5) extend comparable reporting and recordkeeping requirements to importers as is currently required of domestic handlers. The bill further provides that any amendment to the plan issued under the amended Act would become effective on the date the Secretary of Agriculture issues the amendment, without being subject to a referendum.

The Department strongly believes that major amendments to existing programs, such as proposed by S. 836 for elimination of refunds and assessment of imports, should be subject to an upfront referendum. In the alternative, a delayed referendum which allows for refunds of assessments prior to the referendum is acceptable.

Precedent has been established in the beef and pork programs to assess imports of such commodities or the equivalent thereof contained in imported products. S. 836 provides for assessments on imported tablestock, frozen, processed or seed potatoes. Under the currently authorized potato research and promotion program, assessments on potatoes harvested in the United States are imposed only on potatoes for food uses and seed potatoes. The Administration urges modification of the categories of

imported potatoes which would be assessed to assure the same coverage for imports as for domestic products. Discriminatory treatment of imported potato products would violate our obligations under the General Agreement on Tariffs and Trade and the U.S.-Canada Free Trade Agreement.

If provision is included to assess imports of potatoes and potato products, the bill should be further modified to permit importers and domestic producers to participate in a referendum on the amended plan, as well as any future amendments to the plan. The bill should also be amended to provide that any amendments to the plan should become effective no earlier than 60 days after issuance.

If enacted, the revised program would be expected to generate annual revenue of about \$5.9 million compared to the new assessment level of \$4.6 million under the current program. Estimated costs to be reimbursed to the Department for conduct of the referendum is \$20,000.

Pecan Research and Promotion Act
(S. 962) and Department Recommendations

S. 962, if enacted, would enable domestic producers, handlers, shellers, and importers of pecans to develop, finance, and carry out a pecan research and promotion program for pecans produced in 16 States. The program would be administered by a Pecan Marketing Board composed of eight producers, four shellers, one handler, one importer, one public representative, and, at the option of the Board, one non-voting member representing a country other than the United States. After 2 years, the board is expected to generate up to \$6 million per year based on a maximum assessment rate of \$.02 per pound of inshell pecans, as specified in the bill. The bill contains a provision for a delayed referendum to be conducted no later than 2 years after the effective date of the Act. Approval of the program would require a two-thirds majority of those producers voting or a simple majority of voting producers who also produced at least two-thirds of the production represented in the referendum. No provision is included for assessment refunds under S. 962, nor for reimbursement of Department costs associated with implementing and administering the program.

To facilitate the administration and enforcement of S. 962, the Department recommends amendments to provide (1) for a program that is national in scope, (2) authority to the Secretary to issue the plan, after engaging in the appropriate public rulemaking procedures, which would contain all of the administrative provisions necessary to make the program operational; (3) assessments shall begin on an effective date to be established by regulation; (4) refunds of assessments incurred on sales prior to the referendum; (5) full reimbursement to the Department for all costs it incurs in implementing and administering the program, including costs associated with conduct of referenda; (6) prohibition on use of producer assessment funds for purposes of influencing legislation, or any

governmental action or policy, except in recommending to the Secretary amendments to the order; (7) substantially revised enforcement authority to include, in addition to civil penalty authority, and cease and desist authority; (8) reaffirmation of the program if requested by 10 percent of qualified persons; (9) investigation and subpoena power authority, and (10) authority for importers to vote in referenda.

S. 962 as currently drafted does not contain the necessary provisions to conform it to the successful prototype established in existing commodity research and promotion programs. The Department strongly urges the Committee to closely examine and consider our recommendations to facilitate the implementation, administration, and enforcement of the program.

Cotton Research and Promotion Act Amendments of (S. 1313)
and Department Recommendations

S. 1313 would amend the Cotton Research and Promotion Act to provide for issuance of an amendment to the Cotton Research and Promotion Order which provides for (1) assessment of imports of cotton and cotton products (other than industrial products); (2) importers to pay a rate of assessment determined in the same manner as the rate paid by domestic producers, but would be reduced by a percentage equivalent to the overall proportion of exports that reentered the U.S. in the form of cotton and cotton products in the most recent year for which statistics are available; (3) exemption of imports that have a value or weight less than a de minimis figure established by the Secretary; (4) importer representation on the board; (5) termination of the Cotton Board's authority to process applications for refunds; and (6) an increase from \$200,000 to \$300,000 in the ceiling placed on referendum expenses to be reimbursed to the Department.

The Secretary would be required to issue the proposed implementing regulations for notice and public comment within 120 days after date of enactment, and within 8 months after date of enactment conduct a referendum on the proposed amended order which would become effective if approved by a majority of producers voting. A second referendum would be held among producers and importers between 15 and 30 months after the date of enactment of the bill to confirm approval of the amendment. The amendment to the order would no longer be effective if disapproved by a majority of producers and a majority of importers voting. Assessments collected from importers would be held in escrow pending results of the referendum. Authority is also provided for producers and importers to request once every 5 years a continuance referendum, and if 10 percent of producers and importers request the referendum, the amendment would be effective unless disapproved by a majority of producers and a majority of importers voting in the referendum.

The Administration opposes assessments on imports of cotton and cotton products. U.S. imports of these items are limited by strict quotas. Potential benefits from this program for the assessed imports of cotton and cotton products would therefore be minimal. Domestic producers would be exclusive beneficiaries.

This inequity in assessment versus potential returns represents discriminatory treatment of imported product and would be a violation of our international obligations.

Mr. Chairman, this concludes my statement. My associates and I will be glad to respond to any questions the Committee may have.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 26, 1989.

Honorable PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: We appreciate this opportunity to respond to your recent request for a report on S. 918, the "Fresh Mushroom Promotion, Research and Consumer Information Act."

The Department of Agriculture has no objection to the enactment of S. 918 if the bill is amended to address technical and policy concerns outlined in the enclosed statement. The changes recommended for consideration are designed to facilitate the administration and enforcement of S. 918. We will be pleased to work with the committee staff to draft appropriate bill and report language to address such concerns.

S. 918, if enacted, would enable producers of fresh mushrooms to develop, finance, and carry out a nationally coordinated program for fresh mushroom promotion, research, and consumer information. The program, which would be administered by a Mushroom Council consisting of at least four and not more than nine members as determined by the levels of U.S. production and imports, is expected to generate in excess of \$10 million annually based on a maximum assessment rate of 2 cents per pound. The payment of assessments by producers and importers would be one-half of 1 cent per pound for the first year, 1 cent per pound for the second year, and may not exceed 2 cents per pound thereafter. Producers or importers of less than 500,000 lbs. per year would be exempt from the assessment and other provisions of the legislation.

The bill provides that no later than 60 days prior to the effective date of the order (which is 120 days following publication of the proposed order in the Federal Register), the Secretary must conduct a referendum among producers and importers of mushrooms. Approval is by a simple majority of those eligible and voting in the referendum. No provision is included for assessment refunds under S. 918. The Secretary may conduct a referendum no sooner than 3 years following the effective date of an order if requested by 30 percent of those subject to the order. The bill, unlike other research and promotion programs, also permits the development of proposed voluntary quality and grade standards for fresh mushrooms. The Secretary would be reimbursed for administrative costs incurred after the order has been promulgated, including expenses incurred for the conduct of the referendum, except for Federal salaries. The bill would authorize the Secretary to issue orders to restrain or prevent any person from violating an order or regulation and to assess civil penalties in administrative proceedings. It would also authorize enforcement of the order through the district courts of the United States.

The Department currently oversees national commodity promotion and research programs for beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, and lamb, wool, and mohair. Authority exists for the floral and wheat industries as well, but programs are not currently in effect for those commodities. National research and promotion programs focus on generic promotion and market development, with a total of more than \$300 million a year used to increase public and commercial awareness of the respective products. The Department does not object to these industry self-help initiatives which are designed to improve the position of the covered commodities in the marketplace.

Mushroom production is located in many States, although several of the largest producing States account for large shares of the annual total. Fresh mushroom production is more widely dispersed than production for processing. Regionally, the East accounted for about 54 percent of the fresh market tonnage in 1987/88. Central States' production accounted for nearly 11 percent, and the West, about 35 percent. Pennsylvania and California continue as the leading States in domestic mushroom production.

U.S. total mushroom production (including exotics) in 1987/88 (year beginning July 1) is estimated at 633.7 million pounds, the largest on record. With the exception of the 1982/83 crop-year, mushroom production has trended upward since the mid-1960's. Crop value at the grower level is estimated at about \$544.2 million in 1987/88. This includes sales for fresh market and processing. A total of 356 U.S. growers reported production in 1987/88.

Current imports of fresh mushrooms are very small, well below 1.0 million pounds annually. Canada is the largest source of imports. Very small quantities are also imported from Japan, Italy, France, and New Zealand.

The Department urges the committee to give full consideration to our recommendations, as detailed in the enclosed statement, to provide (1) full reimbursement to the Department for all startup costs incurred prior to the issuance of the order; (2) for a 60-day period prior to the publication of the proposed order (rather than 30), and for a 180-day period (rather than 120) to give the Secretary sufficient time to review any comments received on a proposed order and to conduct a referendum; (3) for a specific prohibition of the use of assessments to influence legislation; and (4) substantially revised enforcement authority and procedures.

Enactment of this legislation, if amended, would result in reimbursement to the Department of \$45,000 to \$50,000 for all startup costs, including the conduct of the initial referendum. After the order is issued, ongoing administrative costs are expected to approach \$40,000 to \$50,000 annually.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

Enclosure.

UNITED STATES DEPARTMENT OF AGRICULTURE

COMMENTS ON S. 918—FRESH MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

Section 4(b)(2), page 7, line 1—The "thirty" day period should be extended to "sixty" days to give the Secretary sufficient time to review and publish a proposed order in the *FEDERAL REGISTER*.

Section 4(b)(3), page 7, line 13—The "one hundred and twenty days" period should be extended to "one hundred eighty days" to give the Secretary sufficient time to review any comments received on a proposed order and conduct a referendum.

Section 5(e), page 12, line 16—Add a requirement for a financial audit of the Council's books at least once a year.

Section 5(f)(2), page 13, line 9—After the word "Secretary" delete "after the order has been promulgated under this Act" and insert in lieu thereof "in implementing and administering the Act". This change will provide for full reimbursement to the Department of all costs incurred in implementing and administering these programs. Estimated startup costs are \$35,000; annual administrative costs thereafter are \$40,000 to \$50,000. Recovery of costs for conduct of the referendum pursuant to section 6(c) is \$15,000.

Section 5(f)(3), page 13, lines 18-20—This provision authorizes an exemption from assessment on mushrooms that a first handler certifies will be exported as fresh mushrooms. The Department recommends that this provision be deleted because it provides inequitable and discriminatory treatment for imported mushrooms when compared with domestically produced mushrooms for export.

Section 5(g), page 13, lines 23-24—Insert the words "legislation or" after the word "influencing" to conform the prohibition to departmental policy which states that assessment funds shall not be used for the purpose of influencing legislation or governmental policy or action except in recommending amendments to the Secretary.

Section 5(h)(3), page 15, lines 13-18—Delete the first sentence of section 5(h)(3). This sentence is unnecessary in view of the confidentiality provisions in section 5(h)(2), and it could impair the Department's ability to obtain the assistance of other Federal agencies or to cooperate in appropriate circumstances with such agencies. If this sentence is not deleted, the phrase "and such other purposes consistent with any authorized activity of the Secretary under this Act" should be inserted after the word "Act" in line 18. In the absence of this addition, the language is so broad in its coverage that it could limit the Secretary's ability to effectively oversee the Council's operations.

Section 6(b), page 16, lines 21 and 24—Insert after the header "The Secretary may conduct a referendum at any time." On line 24, delete "30" and insert "10" in lieu thereof.

These changes give the Secretary discretionary authority to conduct a referendum at any time, and provide opportunity for producers and importers comprising 10 percent of a representative group, to reaffirm their support for the program. With these changes, the bill will conform with departmental policy.

Section 6(b), page 17, line 7—Delete "two-thirds" and insert "a majority" to conform the referendum vote to departmental policy, and to provide the same require-

ments for a suspension or termination referendum as apply in the initial referendum.

Section 8, page 18, line 24—The Department recommends that this section be revised in its entirety to define more clearly the relationship between enforcement proceedings in the Federal district courts and the initiation of administrative proceedings before the Secretary. The bill should make clear that the Secretary would have the discretion to use administrative proceedings rather than district court actions. Section 8 should also specify appropriate appeal procedures from orders issued by the Secretary in such administrative proceedings. Additionally, civil penalties should be authorized against persons violating orders issued by the Secretary. Finally, section 8 should be revised to provide for the recovery of unpaid civil penalties by the Attorney General.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 26, 1989.

Honorable PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: We appreciate the opportunity to comment on S. 919, the proposed "Soybean Promotion, Research, and Consumer Information Act of 1989."

The Department has no objection to the enactment of S. 919 if amended to address the technical and policy concerns outlined in the enclosed statement. The changes recommended for consideration are designed to facilitate the administration and enforcement of S. 919. We will be glad to work with the committee staff to draft appropriate bill and report language to address such concerns.

S. 919, if enacted, would enable producers of soybeans to develop, finance, and carry out a nationally coordinated program of promotion, research, and consumer information for soybeans and soybean products. The program, which would be run by a United Soybean Board composed of producers, is expected to generate \$60 million a year based on an assessment rate of one-half of 1 percent of the net market value of soybeans sold. A portion of such funds would be credited back to qualified State soybean boards, and a portion would be used for domestic and export promotion of soybean products, including market access activities and production research. The bill contains a provision for a delayed referendum, with such referendum to be conducted not earlier than 18 months nor later than 36 months after issuance of the order. Approval of the order in the referendum would require a simple majority of those voting.

The Secretary would be required to conduct a suspension or termination referendum on request of 30 percent of eligible producers, with approval required by a majority of producers voting in the referendum. No provision is included for refunds under S. 919. The bill also authorizes the Secretary to deal directly with violators of the Act by assessing civil penalties of not more than \$1,000 per violation and issuing cease and desist orders for violations of any order or regulation.

The Department currently oversees national commodity promotion and research programs for beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, and wool, lamb, and mohair. Authority exists for the floral and wheat industries as well, but programs are not currently in effect for those commodities. These national promotion programs, which focus on generic promotion and market development for their commodities, devote in excess of \$300 million a year to increase public and commercial awareness of their products. The Department has traditionally taken the position that we have no objection to industry self-help initiatives which are designed to help them improve their position in the marketplace.

The Department strongly urges the committee to closely examine and adopt our recommendations relative to (1) providing refunds prior to the conduct of the referendum, including opportunity for periodic reaffirmation of the program; (2) reimbursement for all startup costs, including salary costs, prior to issuance of the order; (3) increasing the time for issuance of the order to 180 days; (4) expanding the prohibition on the use of producer assessment funds to influence governmental action or policy; (5) use by the United Soybean Board and the Soybean Program Coordinating Committee of the staff and facilities of established national, nonprofit, soybean producer-governed organizations; (6) elimination of market access activities; and (7) prohibition on States from conducting a referendum beginning on the date of issuance of the order and ending 18 months after conduct of the referendum.

Estimated startup costs to be reimbursed to the Department for promulgation of the Order are \$150,000. Annual costs thereafter for administration and oversight activities approximate \$200,000. Costs for conduct of the referendum are estimated to be \$190,000, excluding Government salaries.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

Enclosure.

UNITED STATES DEPARTMENT OF AGRICULTURE

COMMENTS ON S. 919—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

Section 3(6), page 5, lines 2, 4, 5 and 6—On line 2, delete "producer under" and insert "soybeans pledged as collateral for". On line 4, insert after "(B)" the words "the Commodity Credit Corporation,". On lines 4 and 5, delete "or encumbered" and insert "as collateral." On line 6, delete " " and insert "to".

Section 3(8), page 5, lines 12-17—Delete the definition of "market access activities" since reference to such activities in section 5(e)(2) should be deleted.

Section 4(b)(3), page 8, lines 14-17—The 120-day timeframe presents severe time constraints for the Department. The Department is amenable, however, to a 180-day requirement.

Section 5(a)(3)(A), page 11, lines 17-20—Delete the last sentence in this section; it is not necessary in the law. Departmental policy currently requires that two names be submitted for each appointment to Boards of this type.

Section 5(c), pages 14-16, line 1 on page 14 through line 10 on page 16—The section on Board Voting Procedures could be deleted. Operating procedures of the Board are more appropriately handled in the bylaws of the Board.

Section 5(d)(2), page 16, lines 20-23—Place a period (.) after the word "boards" on line 20 and delete the remainder of the sentence. Reference to cooperator status with the Foreign Agricultural Service does not appear to be necessary to identify the organization from which nine producers are to be elected to serve on the soybean program coordinating committee.

Section 5(e)(1), page 17, lines 22-24—Delete the 30-day requirement for approval by the Secretary of the budget that is submitted by the Board. The 30-day timeframe is too restrictive and could result in disapproval of the budget by the Secretary if the Department was unable to complete its assessment and evaluation in that period of time. Additionally, it could preclude partial or conditional budget approval.

Section 5(e)(2), page 18, line 4—Delete the words "and market access activities." The bill defines "market access activities" as activities or actions designed to identify and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products that do not involve actions designed to influence legislation in the United States." This definition does not preclude a wide range of actions designed to directly influence foreign government policies. Nor does it preclude efforts to influence the Administration (USTR, USDA, State and Commerce, . . .) to pursue particular Government actions.

We do not believe that research and promotion boards, established by Federal statute and administered by the Secretary of Agriculture, should be involved in the type of activities contemplated by this section. The activities authorized by this provision could substantially conflict with the United States Government's policies and actions from both a domestic and foreign policy standpoint. It would also establish an extremely undesirable precedent with respect to the other research and promotion boards administered by the Secretary.

Section 5(f)(1), page 18, lines 10-12—The Department is opposed to use by the Board of an established national organization's staff and facilities for purposes of carrying out its activities unless strict safeguards are established to provide for an "arms-length" relationship between the Board and such an organization. Failure to do so could result in a substantial conflict of interest as the Board is prohibited from engaging in activities to influence legislation which is one of the primary functions of such a national organization.

Section 5(h)(3), page 19, line 21—Delete the (.) and add ". . . and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year."

Section 5(i)(2), page 20, lines 19-20—Revise the last phrase to read as follows: "... and reimbursement to the Secretary for costs incurred by the Secretary to implement and administer the Order." This language is needed to ensure full reimbursement to the Department for the expenses it incurs, including startup costs and all costs associated with administering the program. These costs can be significant in a program of this scope. The Department can no longer absorb these costs. Startup costs for this program are estimated to be \$150,000; annual administrative costs are \$200,000.

Section 5(j), page 21, lines 10-16—Traditionally, assessments are collected and paid by the Commodity Credit Corporation (CCC) to the applicable entity at the time that price support loans are disbursed to producers. Purchasers of commodities previously pledged as collateral for price support loans do not make additional collections when presented with a copy of the producer's note and security agreement evidencing CCC's collection. This method provides for the payment of funds to the applicable entity as they are collected, eliminates the need for CCC to maintain records on the collection for potential payment in the event of loan forfeiture, and eliminates the need for CCC to make refunds if the loans are repaid.

This method is used in each of the 61 agreements under which CCC is collecting assessments on commodities pledged as collateral for price support loans. Of the 61 agreements, two are national assessments for the Honey Board and Cotton Board and 16 are with individual States for the collection of an assessment on soybeans. An aberration from this procedure in the States where CCC is already collecting soybean assessments may cause mass confusion in the marketplace.

Section 5(k), page 21, line 17—Change first word from "Certain" to "Credit."

Section 5(l)(1), page 22, line 12—Change the word "Secretary" to "Board." Determining the amount of assessments each qualified State soybean board will receive annually seems to be a mathematical function based on data available in each State. It does not involve any official data of the Department. It does not appear necessary for the Secretary to make such a determination. The Board could perform that function with the same result.

Section 5(n), page 23, lines 16-19—Replace that section with the following: "The Order shall prohibit any funds collected by the Board under the Order from being used in any manner for the purpose of influencing legislation or governmental action or policy, with the exception of recommending amendments to the Order." The Department feels strongly that the prohibition contained in this section should be conformed to the Department's prescribed language and should be applicable to State soybean boards as well. The absence of such provision could result in potential abuse of producer funds.

Section 6(b), page 26, line 16—The 30-percent requirement of producers needed for the conduct of additional referenda is too high, making it virtually impossible for producers to meet the requirements for a termination referendum. The Department feels strongly this requirement should be changed to 10 percent; and, that a provision should be included confirming the Secretary's discretionary authority to provide the opportunity for producers to reaffirm their support in some manner for these programs.

Section 6(c)(3), page 27, line 16—Add language following this section to provide for refunds of assessments incurred on sales prior to the referendum. Either direct refunds on a monthly basis (as provided for in most programs of this type) or a provision for escrowing funds to make a one-time refund could be employed. If the escrowing alternative is utilized, the Department believes that a minimum of 10 percent of total assessments collected during the period prior to the conduct of the referendum is a reasonable level for escrowing.

Section 10(a)(2), page 32, lines 21-25, page 33, line 1—We question the prohibition that no State may conduct a referendum . . . during the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted. This could be viewed as a serious intrusion into the authority of the States. We encourage the Committee to closely examine this provision.

PREPARED STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM IDAHO
HEARING ON LEGISLATION TO AMEND THE POTATO RESEARCH AND PROMOTION ACT OF
1971

Mr. Chairman, I appreciate the opportunity to appear before your subcommittee in support of legislation to amend the Potato Research and Promotion Act of 1971. It was my pleasure to join Senator Mitchell in introducing the proposed legislation.

Our legislation is strongly supported by potato producers in this country. As you know the National Potato Council, representing over 13,000 potato producers across the country, has voiced its strong support for the bill. In addition, the Potato Growers of Idaho, which represent over 65 percent of the potato growers in Idaho are in favor of this bill.

The bill has three main components. One, it provides for assessments from importers who import potatoes into this country. This is appropriate because the Board's activities enhance the market for imported potatoes as well as it does for domestically produced potatoes. The Board has never made any reference to any particular brand of potatoes nor has it tried to distinguish between imported and domestically grown potatoes. Therefore, it only seems fair that foreign producers of potatoes who export into this country pay their fair share of the program costs.

The second main feature of the bill is that it deletes the refund provision of the current statute. Here again, we are trying to get more equity into the current legislation. At present about 4 percent of growers ask for refunds for about 15 percent of total assessments collected. A few large producers are getting a "free ride". The proposed bill would correct the inequity.

Finally, the bill would authorize the Secretary of Agriculture to institute the proposed changes without a referendum. We do not feel a referendum is necessary given the large expense associated with conducting one among the 13,000 producers in the United States. Besides the large expense involved, we noted that there have already been two referendums conducted among the growers where industry support for the program was clearly indicated.

In summary, the bill would correct some inequities that exist in the current Research and Promotion Act. The bill would also make the potato industry program current with other industry programs such as beef and pork.

Mr. Chairman, again I thank you for the opportunity to lend my support for this legislation before your subcommittee on behalf of all potato producers.

PREPARED STATEMENT OF HON. ALAN CRANSTON, A U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, I greatly appreciate your holding this hearing on various agricultural research and promotion bills and including S. 992, legislation I'm sponsoring to amend Section 8e of the Agricultural Marketing Agreement Act to add kiwifruit, peaches, pears, nectarines, and plums to the list of imported commodities that must meet minimum quality standards of domestically produced fruits, vegetables, and specialty crops.

As you know, the Agricultural Marketing Agreement Act authorizes producers and handlers of fruits, vegetables, and specialty crops to enter into an agreement with the Secretary of Agriculture to develop programs to stabilize and improve markets for their products. These programs, known as marketing orders, can be put into effect only if approved by a majority of the producers of the commodity in a producer referendum. Once approved, however, all producers and handlers in a defined production area are subject to the provisions of the marketing order. The marketing orders can include collection of uniform assessments to fund production and marketing research, generic advertising and promotion, regulation to assure orderly flows to market, and minimum quality standards for products commercially sold.

Currently some 50 agricultural commodities, including kiwifruit, peaches, pears, nectarines, and plums, are marketed under the provisions of a marketing order. The Federal marketing order for kiwifruit was established in 1984. It provides for minimum grade, size and maturity requirements. California fresh pears, plums, and peaches have operated under a marketing order since the 1940's. A separate marketing order for nectarines was established in 1958. The marketing orders for these four fruits also provide for minimum quality standards. These minimum quality provisions ensure that consumers receive a high quality product and help enhance industry sales.

However, efforts by a domestic industry to market only high quality produce under the auspices of a marketing order can be severely undercut by imports of a like commodity that is of inferior quality. Consumers often cannot distinguish be-

tween fresh fruits and vegetables that are domestically grown and those that are imported.

Section 8e of the Agricultural Marketing Act Agreement provides a remedy to this problem by providing that if domestic producers adopt through a marketing order a plan to establish minimum quality standards for a particular commodity, then the imported commodity marketed domestically must also meet these minimum quality standards. Section 8e thus ensures quality consistency and benefits domestic and foreign producers equally to the extent that the market is enhanced through improved product quality.

Currently there are 20 agricultural commodities being marketed under the auspices of Section 8e. California kiwifruit, peach, pear, nectarine, and plum growers are asking that their products be added to this list of Section 8e crops. The State's kiwifruit industry is relatively new and the kiwifruit market is heavily dominated by first-time buyers. The industry believes that consumption of kiwifruit can be maintained and expanded if consumers have available to them a consistently high quality, tasteful product. However, consumer preference can be easily destroyed by one bad experience especially if it is the consumer's introduction to the fruit. Imports of kiwifruit have been increasing significantly and include fruit that tends not to ripen enough to result in a high quality product. Unfortunately, this influx of lower quality imported fruit has hurt California kiwifruit growers economically.

The California peach, pear, nectarine, and plum industries have well developed markets, supplying consumers with fruit that is attractive and of good eating quality. However, imports of peaches, pears, nectarines and plums also have increased substantially over the last 5 years. The upward trend in imports is expected to continue. California growers of these products are interested in amending Section 8e so that their past achievements in marketing quality peaches, pears, nectarines and plums can be successfully continued.

S. 992 would ensure that kiwifruit, peaches, pears, nectarines, and plums produced in foreign countries and marketed in the United States have the same minimum quality standards of fruit produced and marketed domestically. It will give the same Section 8e coverage already afforded 20 other agricultural commodities.

Mr. Chairman, I hope that you will act favorably on this legislation so that it can be considered by the full Senate. Thank you.

[The prepared statement and exhibits A-D of Howard Lyman, the prepared statement of the American Farm Bureau Federation, presented by Andrew Whisenhunt, and the prepared statement and attachment of David Senter follow:]

STATEMENT OF HOWARD LYMAN, LEGISLATIVE ANALYST,
NATIONAL FARMERS UNION

I am Howard Lyman, Legislative Analyst with the National Farmers Union, the general farm organization with 300,000 members in major agricultural states.

National Farmers Union believes that producer-financed research, promotion and advertising programs can be useful for a farm commodity under certain conditions.

Such self-financed check-off programs can be justified when:

1. They are needed to encourage and promote consumer loyalty to the commodity or its end products,
2. There is a potential for market growth and for the development of new uses and products,
3. The check-off is entirely voluntary, i.e., when the producer can reject the assessment at the first point of sale,
4. The program is controlled and managed by a producer-elected board,
5. The program is implemented and becomes operational only after approval by a two-thirds majority of producers voting in a national referendum, and
6. It is clearly indicated that check-off proceeds cannot be used for political or lobbying purposes.

We believe that when any producer-financed research and promotion program is proposed, it can and should be brought within the above parameters.

If legislation is proposed for generic or specific commodities, and is brought within these guidelines, National Farmers Union believes the program could have merit. However, the ultimate decision should be made by producers of the commodity.

Farmers Union is ready and willing to work with the committee to achieve necessary improving amendments. We direct the attention of the subcommittee to the following four exhibits attached to this testimony and ask that they be a part of the hearing record:

- * Exhibit A -- 1989 National Farmers Union policy statement relative to producer-financed assessment programs for commodity research, promotion and advertising.
- * Exhibit B -- The extent and prevalence of producer check-offs.
- * Exhibit C -- Legal background and considerations.
- * Exhibit D -- Theory and effectiveness of generic advertising.

EXHIBIT A: 1989 NATIONAL FARMERS UNION POLICY POSITION

At the 87th annual convention of National Farmers Union in March 1989, delegates adopted the following plank on check-off programs:

We are opposed to mandatory commodity check-offs. The Farmers Union will support research and promotion programs financed by deductions from proceeds of sales by producers of agricultural commodities only if all the following criteria are met:

- a. Disbursement of funds collected is controlled by boards of producers elected by the producers assessed, and the operations of the program are controlled by those producers voting in a referendum.
- b. Approval is by two-thirds of producers voting in a referendum.
- c. Programs being formulated or currently in operation are subject to review in a referendum every three years and subject to review at any time on the call of 10 percent of the producers concerned.
- d. Producers are provided the opportunity to contribute or not at the initial point of collection.
- e. Criminal penalties are provided prohibiting funds from being used for political or lobbying activities.
- f. Changes in existing check-off programs, including changes in check-off levies and/or administrative and operational changes, be submitted to producers affected and subject to approval by a two-thirds vote.
- g. After a federal check-off is in effect, all review referenda should be financed and conducted by the federal government.
- h. Whenever a commodity check-off is assessed against American producers, we recommend that a double fee be assessed against foreign imports of that commodity in either raw or manufactured form.

We call on the Secretary of Agriculture to utilize his oversight authority to completely review the operations of federally sanctioned commodity check-off programs and issue an independent public report on their effectiveness, including a complete accounting of all funds collected and disbursed. As part of this study, we request the Secretary to hold public hearing in the states to producers an opportunity to participate.

EXHIBIT B: EXTENT AND PREVALENCE OF PRODUCER CHECK-OFFS

Today there are 312 federal and state-authorized producer-financed research and promotion programs aimed at enlarging the sales of some 80 farm commodities. An estimated two million farmers (more than 90% of the total) support one or more of these check-off programs.

Producers contribute about \$970 million annually to promote their products through legislated assessment programs under special legislation or marketing order programs. Another \$30 million is accumulated under voluntary arrangements.

Of the \$1 billion total, \$440 million is in the beef program, with about \$150 million accounted for in the programs operated by the National Dairy Board, the American Dairy Association and 24 state or regional dairy organizations. Of that \$150 million total, \$72 million was spent on fluid milk, \$50 million on cheese and \$20 million on milk as a source of calcium. Pork producers spent about \$9 million in 1988, principally on promoting fresh pork products.

Most of the food advertising which consumers see regularly is brand advertising which promotes a particular brand owned by a single firm or the name of a particular food chain or store. The food industry spends \$9 billion a year in advertising foods available at retail, about \$19 billion totally. Advertising

accounts for about 4.5% of each dollar spent for food.

Generic is defined as "belonging to a certain general class or group". In farm product advertising, it means promoting the commodity itself rather than the end-product. It involves selling products which do not have trademarks. The purpose of generic advertising campaigns is to increase the aggregate demand for the individual commodity over the long-term.

Producer-financed generic advertising has developed over the decades because food stores exhibit little product loyalty. The stores advertise and sell whatever they have in stock; they care little whether a certain product is natural or an imitation product. Sometimes, profit margins, as on dairy products, are larger on imitation items than on natural food products.

Some of the generic advertising takes place to fight nutritional quackery and to defend the reputation of natural foods which are criticized as harmful to health--at times, milk, butter and other dairy products, animal fats, chicken eggs, beef and pork.

EXHIBIT C: LEGAL BACKGROUND AND CONSIDERATIONS

Agricultural promotion groups are usually private in nature but perform a semi-public function. Since the groups are often provided for in the statute and they are accorded taxing or assessment powers, numerous legal questions arise.

Typical state enabling legislation recognizes that it is "in the interest of the public welfare that farmers who produce agricultural commodities shall be permitted to act separately or jointly in cooperation with handlers, dealers and processors of such products to promote and stimulate the use, sale and consumption of such commodities."

These research and promotion programs are financed by assessment, commonly called "check-off", levied on the producer when the products are first marketed. The assessment may be voluntary, it may be mandatory with a refund provision or as is now the usual case, strictly mandatory.

Most controversies regarding check-off pertain to:

- 1) The procedure for establishment of the programs;
- 2) The legality of the tax or assessment;
- 3) The unconstitutional delegation of state powers to a private group;
- 4) Questions as to whether producers will control the promotion board or commission;
- 5) Limitations on what the check-off proceeds may be used for; and
- 6) Whether any producers should be allowed to be free riders.

Although the decisions vary greatly, federal and state courts have generally allowed check-off programs to operate when the amount of the levy is fixed and where there is some limitation on the conduct and operations of the programs.

State legislated check-off programs were authorized beginning in the early 1930's. Authority for the collection of promotion funds from producers participating in federal market orders on milk, fruits, nuts and vegetables was contained in the

Agricultural Marketing Agreement Act of 1937.

The current nationwide dairy check-off program was authorized in the Dairy and Tobacco Adjustment Act of 1983. Pork, beef, honey and watermelon producer groups obtained authority for mandatory assessment legislation in 1984 and 1985. The current potato program was authorized in the Potato Research Promotion Act of 1971.

EXHIBIT D: THEORY AND EFFECTIVENESS OF PRODUCER-FINANCED GENERIC ADVERTISING

The value of generic advertising programs seems to differ by commodity and by conditions in a particular commodity. The dairy program was strongly approved in the producer referendum and appears to be well-accepted by producers. Citrus fruits are heavily advertised, both generically and in brand promotion. Beef producers heavily approved the check-off program in the last voting.

In several instances at the state level, check-off proposals have been rejected by producers, on some occasions, repeatedly. Opposition has usually centered on the mandatory nature of the assessment and on the lack of farmer control of the program.

Whether a particular program will be successful may depend on:

- 1) How much potential there is for market growth, i.e., is consumption already near the saturation point?
- 2) Whether the market is dominated by a few major handlers.
- 3) Whether producers are fairly well united in supporting the program and have well-defined objectives.
- 4) Whether dissemination of information will help attract consumers.

While studies have been made to determine the acceptance of various generic advertising campaigns, little has been done in research to determine the actual response rate of consumers and to calculate a dollar return on the producer-financed expenditures.

**STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE SENATE COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING
AND PRODUCT PROMOTION
WITH REGARD TO COMMODITY PROMOTION AND RESEARCH
July 14, 1989**

**Presented by Andrew Whisenhunt
President, Arkansas Farm Bureau and
Member, AFBF Board of Directors**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the American Farm Bureau Federation's position regarding programs for commodity promotion and research. My name is Andrew Whisenhunt and I am a soybean, wheat, cotton and rice producer from Bradley, Arkansas. I serve as the president of the Arkansas Farm Bureau and am a member of the board of directors of the American Farm Bureau Federation (AFBF).

AFBF has for many years recognized the right of producers to establish and fund programs designed to promote increased research, sales and consumption of the commodities they produce. As a general farm organization representing producers in 49 states and Puerto Rico, our members produce virtually every commercially produced agricultural commodity. Our membership feels it is imperative that commodity specific checkoff programs be structured to provide producer control and safeguards against the program's misuse of funds or engaging in inappropriate activity.

It is important to remember these research and promotion programs have the potential to increase returns to the producers of the commodity. At the same time, the funds collected from farmers are of significant magnitude both in total and to the individual producer. We estimate that approximately \$500 million is being collected annually to fund programs for a variety of commodity checkoffs in place today. This is a large sum in the aggregate. On the other hand, an individual's contribution of one-half of one percent of the value of his product amounts to 10 percent of his net profit if he is operating at a 5 percent profit margin, as is typical for many farmers. The point is that these funds add up to significant sums. The growers funding these programs need to exercise control over the program so that the resources collected from farmers are utilized in an effective and efficient manner. If this producer control is not assured, farmers may come to view the collection of these funds as an imposed tax rather than as a worth while contribution to a cooperatively developed, administered and funded grower effort.

Farm Bureau has developed policy over the years which addresses specific provisions that should be included in a checkoff program in order for us to support its establishment. These provisions are mainly intended to provide producer control and limit the use of funds to proper activities for checkoff programs. Many of the specifics we require were included as provisions of the

Agricultural Marketing Agreement Act of 1937 and are, therefore, grounded in historical legislative precedent. The list of safeguards included in Farm Bureau policy are:

- (1) Approval by producer referendum prior to implementation of a program;
- (2) Referendum procedures which protect voting rights, provide uniform voting procedures and encourage maximum participation by producers;
- (3) Producer control over the program. There should be opportunity for refunds of assessments without undue difficulty. For programs that do not allow a refund, a periodic referendum to determine continuation or termination of the program should be held at intervals not to exceed five years; however, a referendum shall be held at any time upon petition of at least 10 percent of the registered producers in any area covered by the program;
- (4) Producer control of the board administering the program; and,
- (5) Limitations on the use of funds for promotion, market development and research only. Grower educational programs should be limited to project information and financial statements.

The proposed soybean checkoff program authorized by S. 919 and H.R. 2209 as they were introduced failed to comply with some of the criteria outlined in our policy. AFBF leaders have engaged in extensive discussions with the bill's proponents, the American Soybean Association (ASA), state soybean grower organizations and state checkoff boards. In addition, we have informed congressional sponsors of the bill of our concerns and of our sincere desire to resolve these differences.

This effort culminated in negotiations involving the presidents, key leaders and staff of AFBF and ASA. The result was an agreement covering seven major points. I am pleased to say that the AFBF board of directors at its meeting on Monday, June 5, 1989, accepted the recommendation to support this bill provided that it is amended to conform with the agreement. We believe that these amendments will bring this program in line with the intent of our policy provisions while at the same time permitting the ASA to promote a program that meets the objectives that they had agreed to when developing this proposal.

More than 10 issue areas were discussed in these meetings, but the seven major changes to the bill which both organizations agreed to support are:

1. **RECALL PROVISIONS:** The Secretary would be required to hold a recall referendum if 10 percent of the soybean farmers sign a petition calling for a referendum on continuation of the program. In order to assure

geographic diversity from those submitting the petition, we agreed that no more than one-fifth (20 percent) of the total number of petitioners could come from any one state.

2. **MANDATORY RECONFIRMATION VOTES (PERIODIC REFERENDA):** Farmers would be given an opportunity once every five years to go to the county extension office or ASCS office (or mail in an absentee ballot) to require a full reconfirmation referendum. Moreover, the Secretary would be required to call such a referendum if 10 percent of the farmers (as defined in the recall section) request a reconfirmation vote. Suggested schedule: The reconfirmation sign-up date be established and publicized every fifth year following the initial referendum; and that the Secretary be required to hold a reconfirmation referendum within 12 months (it takes two to four months to prepare a marketing order that provides for the referendum) if 10 percent of the nation's soybean farmers (representing the specified number of states) require such a vote. The order shall prescribe that USDA and the United Soybean Board (USB) publicize the sign-up period at least 60 days prior to the reconfirmation date every fifth year after the initial vote.

3. **REFUNDS AND UPFRONT REFERENDUM:** The legislation will provide a refund option to individual producers until the approval of the initial referendum. These refunds would be provided to the producer as soon as possible rather than held in an escrow account. Refunds will be provided within the time frame specified by the appropriate state laws and procedures (an average of 30-45 days).

4. **INFLUENCING LEGISLATION:** The bill will substitute the language prohibiting the use of checkoff funds to influence legislation with language that is included in the authorizing legislation for the Beef Promotion and Research Act of 1985 which states:

The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental action or policy, with the exception of recommending amendments to the order.

5. **ANNUAL AUDITS:** Require that USB funds and projects are audited at least annually.

6. **DEFINITION OF TERMS:** Terms should be defined as follows:

Promotion: means any action, including paid advertising, technical assistance and trade servicing activities, to enhance the image or desirability of soybeans and soybean products in domestic and foreign markets.

Research: means any type of study to advance the image, desirability, marketability, production, product development, quality, functional or nutritional value of soybeans or soybean products.

Consumer information: means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing and use of soybeans and soybean products. Consumer information will not include information or programs designed to influence public policy.

Industry information: means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans and soybean products. Industry information will not include information or programs designed to influence government policy.

7. **DOUBLE ASSESSMENT UNDER SOYBEAN LOAN:** The legislation and marketing order will establish a mechanism of collection on soybeans under CCC loan, whereby a second checkoff assessment will not be collected when the product is marketed.

With the changes outlined above, Farm Bureau will support S. 919 and H.R. 2209. This amended legislation will provide producer control and safeguards against inappropriate activities and provide an opportunity for the establishment of a program that could benefit soybean producers and permit them to increase the value of their products. We believe these proposed changes will help instill greater producer confidence, understanding and support for this program.

Our position on other promotion and research programs that have been proposed are guided by our policy as I listed earlier. To be brief, I will mention only the changes we would request to legislation that has been introduced in the Senate or the House during this legislative session to provide for commodity promotion and research program on cotton, pecans, potatoes, mushrooms and limes.

The legislation introduced to amend the cotton promotion program S. 1313 fits the guidelines in our policy. It contains an upfront referendum and a provision similar to soybeans for a continuation petition every five years. It also contains a provision that allows 10 percent of the producers and importers to petition for a new referendum. The provision on foreign-produced cotton imports is very important to the program since cotton imports will share in the benefits of any domestic market development program and should share in the cost of those benefits.

S. 962, the pecan promotion and research Act should be amended to include an upfront referendum and either a refund provision or continuation vote every five (5) years.

S. 836 and H.R. 2257, the amendments to the present potato promotion and research program would delete the present refund provision. If the opportunity for refunds is removed our policy would call for a periodic referendum every five (5) years included in the legislation.

Legislation to provide for a mushroom promotion and research program S. 918 and H.R. 2187 contains an upfront referendum but should be amended to include a continuation referendum every five (5) years if the no refund provision is to be included in the final bill. Also, the number of producers and importers required to request a continuation referendum should be changed from 30 percent to 10 percent.

The lime promotion legislation S. 1194 and H.R. 1776, should be amended to provide for an upfront referendum and either a refund provision or a provision for a continuation referendum every five (5) years. The provision that allows for a petition for a continuation referendum should be changed from a request of 25 percent of those subject to the act to 10 percent.

There has been discussion on other promotion and research program for commodities such as honey and fruits and vegetables. Our policy would support these proposals only if they provided for producer control as specified in our policy statement.

Mr. Chairman, the committee may want to consider developing generic commodity promotion legislation that would establish overall guidelines for development of commodity specific promotion and research programs. If pursued this legislation should include provisions that provide protection for producers and assure producer control of the program as outlined in our policy position.

In conclusion let me say, AFBF supports allowing producers to establish programs that provide research and promotion of their products. Control of these programs must remain in the hands of producers. We feel that the policy position our members have established will provide for strong promotion programs under producer control.

Thank you for the opportunity to share our views with you. I will be glad to respond to any questions that you may have.

TESTIMONY OF DAVID SENTER, NATIONAL DIRECTOR, AMERICAN AGRICULTURE MOVEMENT, **JULY** 14, 1989.

Thank you, Mr. Chairman. I am David Senter of the American Agriculture Movement. I appreciate the chance to be here today to present AAM's views on commodity promotion, or check-off, programs.

AAM is a general farm organization representing producers of many different commodities, some which have had promotion programs and some which have not. Our policy resolution on check-off programs is attached to my statement. We have several basic positions with regard to any check-off program, whether for soybeans, or mushrooms, or any other commodity.

First, I want to stress that no commodity check-off program, regardless of how successful it may be, can substitute for a farm program that provides producers a fair price for their product. We have been losing our share of the world soybean market, for example, to foreign producers over the past several years, and that trend will continue unless Congress establishes a program under which farmers can expect to make a profit from growing soybeans. Even the best promotional and research efforts of a well managed check-off program will not make farming profitable; only higher prices will do that.

Second, participation in a promotion program should be voluntary. Producers who do not want to contribute should be able to apply for a refund at the first point of sale, with a minimum of red tape. For those on the Subcommittee who may be concerned that a voluntary system would not work, I should note that the current cotton check-off program is voluntary, as are most of the state commodity promotional programs. Where the programs can demonstrate their usefulness, most producers choose to participate and do not seek refunds.

On the other hand, when a program gets off-track, and wastes the producers' contributions to the program, the refund provision serves to force better management. The experience several years ago of Cotton, Incorporated, the research and promotion arm of the cotton industry, is instructive on this point.

While Cotton, Incorporated has a well-run program today, that has not always been the case. Ten years ago it did not enjoy this reputation. Many of you will remember the controversy a decade ago when Duke Wooter ran the program. Charges of exorbitant salaries, wasteful consulting contract, and other abuses led to Congressional hearings. Those hearings, along with a significant increase in the number of cotton farmers requesting a refund of their check-off money, eventually forced Mr. Wooter's resignation and a change in the way the program was managed.

The ability of farmers to register their disapproval by requesting a return of their money was the crucial factor in cleaning up the program and in providing the well-managed program from which all cotton farmers benefit today. That would not have been possible without a refund provision in the program.

Third, a producer referendum has to come first. No one should be told to pay into a program without the opportunity to vote on whether

they want the program in the first place. AAM has always endorsed a producer referendum on commodity and check-off programs. It is vital to have the opportunity to vote preceding a program which is proposed to be funded by producers. We also urge the Subcommittee to have a new vote every five years to serve as a check and balance on the effectiveness of the program.

Fourth, the appropriate uses of funds collected must be clearly spelled out. Commodity promotion programs should provide for research, producer education, and generic consumer advertising. Producer funds should not be used to relieve processors from having to budget for retail advertising. And, there should be absolutely no use of promotion funds for political or lobbying activities, either here or abroad. That prohibition should apply to a national promotion program and to any state programs that might share in the funds collected.

Fifth, any commodity check-off system should apply to all sellers of the commodity in its raw, unprocessed condition, at all points of sale. Grain traders, commodity speculators, and others who benefit from the check-off program should be required to contribute to the program, along with producers. This is especially appropriate when dealing with a commodity such as soybeans, which is not consumed in its raw form, and which is therefore not subject to increased consumer demand through promotional efforts. Processors, middlemen, and grain speculators will benefit from the program at least as much as the producers, but they are not required to pay their share of the costs of the program.

Finally, we believe that commodity promotion boards should be broadly representative of the producers of the commodity. To achieve a balance of views, AAM would recommend including representatives of the five largest general farm organizations on the board.

Thank you, Mr. Chairman. I would be happy to answer any questions you might have.

-- ATTACHMENT --

Policy Resolution on Check-Off Programs

(1) WHEREAS, farmers have deducted from the sale of their commodities various amounts for education, research and promotion, with which they may or may not agree; therefore,

BE IT RESOLVED, that AAM, Inc. opposes any mandatory commodity check-off without opportunity for refund. -1986-

(2) BE IT RESOLVED, that AAM, Inc. work for legislation on state and national levels to prevent the automatic taking of check-offs without producer referendum.

BE IT FURTHER RESOLVED, that AAM, Inc. recommended to all producers to request a refund of all commodity check-off funds from any commodity group who refuses to support farm legislation that will return at least the cost of production to the producer. -1987-

PREPARED STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM MAINE

Mr. Chairman:

I am pleased to have this opportunity to express my strong support for S. 836 the Potato Research and Promotion Act Amendments of 1989, which was introduced by Senator Mitchell, myself and a number of our colleagues on April 19, 1989. As a longtime supporter of the U.S. potato industry's continuing effort to promote greater consumption of this delicious and versatile vegetable, I am pleased to support legislation which, for the first time, would cover all potato producers. It seems only fair that all growers who receive the benefits of the Potato Board's research and promotion programs should contribute equally.

Since its creation in 1971, the grower-supported Potato Board has developed many successful research and market promotion programs designed to increase worldwide consumption of fresh and processed potato products without regard to country of origin or commercial brand. In its 18 years of existence, consumption of potato products has increased dramatically. Industry support of these programs can be best shown by the remarkable 95 percent participation rate in the voluntary assessment charged to the first product handler. Nevertheless, the 5 percent of the growers choosing not to participate represents nearly 15 percent of the Potato Board's anticipated revenues. S. 836 would correct this inequity so that all potato producers who benefit from the Board's programs would contribute to its support.

First, our legislation calls for the elimination of the voluntary nature of the assessment. For too many years, a few large producers have chosen to request a refund of their assessment, while continuing to enjoy the benefits of the Potato Board's valuable research and marketing programs. It simply isn't fair for 95 percent of the Nation's potato producers to give a free ride to these large, well-financed operators.

Second, S. 836 would authorize the collection of assessments on all imported potatoes and potato products. Again, this is simply a matter of equity as foreign potato exporters enjoy the benefits of the Potato Board's programs, while the domestic industry foots the bill. In return for allowing assessment collections on imported products, importers would, for the first time, be granted representation on the 95-member Board of Directors which determines how the money is spent.

Finally, our bill allows the Secretary of Agriculture to immediately implement these changes upon enactment. Under present law, the Potato Board is required to hold a costly and time-consuming grower referendum before changing any aspect of its mission. However, as a safeguard, should 10 percent of the growers request that a referendum be held, the Secretary of Agriculture would be required to do so.

It is clear that over the past 18 years, the National Potato Research and Promotion Board has become a model for agriculture self-help. It has expanded worldwide potato consumption at virtually no cost to the government, and is highly regarded by the industry which financially supports it. Our legislation will allow the Board to continue its successful programs into the next century, benefiting all producers regardless of size or nationality. For these reasons, I urge the subcommittee to move this legislation forward with all due speed. Thank you.

[Prepared statements, letters, and reprints of S. 836, S. 918, S. 919, and S. 962 follow:]

STATEMENT OF THE
FEDERATED PECAN GROWERS OF THE UNITED STATES
BEFORE THE SENATE SUBCOMMITTEE ON DOMESTIC AND FOREIGN
MARKETING AND PRODUCTS PROMOTION
JULY 14, 1989

Mr. Chairman and Members of the Committee:

The pecan industry appreciates this opportunity to address this committee and have you consider Senate Bill S-962, the "Pecan Promotion and Research Act of 1989". My name is Fred Beshears and I am President of the Federated Pecan Growers of the United States, which represents all the nations' growers. (Introduce other officers and directors). The original Federated Board was formed in the early 1900's and has had its present organizational structure since the 1930's. Our Board is made up of representatives from each of the eleven state and regional pecan associations representing the sixteen pecan growing states.

In Natchez, Mississippi, during our annual Board meeting in March of 1988, we decided to study how we might improve pecan marketing in our industry. The following May there was a pecan marketing conference held in Albany, Georgia, chaired by United States Senator Wyche Fowler, with a panel of food experts and marketing specialists. Testimony was given by pecan growers, processors, scientists and consumer representatives. The conclusion of the panel was that the pecan industry has serious marketing problems and needs to develop a national marketing plan. During the summer of 1988, many meetings were held throughout the pecan belt from Georgia to California, with growers, shellers, handlers and processors in attendance. One startling fact soon became evident. For the past three to four years our industry was collectively losing money. Another problem we discovered is that pecan production in this country is increasing faster than the population is growing. Mexico has many acres of young pecan trees which, in three to five years, will be capable of producing enough pecans above their domestic consumption to export one hundred million pounds to the United States. Those additional pecans will increase the domestic supply by over thirty percent, verses the five to ten percent that is being exported today. This tremendous increase in supply, plus increased domestic production without long range planning, will be catastrophic to our entire industry. Also, our competitors in the nut industry all had national marketing groups and were developing new uses and markets, increasing market share and exporting large percentages of their crops overseas. Two of the larger groups, almonds and walnuts, are spending annually \$15,000,000 and \$10,000,000, respectively, on market promotion and development. After we studied the relationship between their production, prices and inflation over the last seventeen years, we became convinced that marketing programs had been very instrumental in helping the almond and walnut industries.

1970-1987 Percentage Increase*

	<u>Production</u>	<u>Prices</u>
Almonds	342%	214%
Walnuts	128%	103%
Pecans	69%	68%
Inflation		189%

*Source: U.S.D.A. Fruit and Tree Nut Situation and Outlook Yearbook August 1988.

The above figures tell us that the almond and walnut industries have done an excellent job for their growers and processors, while the pecan industry has lost two-thirds of its purchasing power with its pecan income; not a good sign of a healthy industry. Lastly, we have no national entity to represent all facets and aspects of our industry.

With these facts and other information we learned we held a meeting in Byron, Georgia, in September of 1988, and decided to develop a national marketing plan. A committee went to the National Pecan Shellers Association meeting in September, 1988, in Colorado Springs, Colorado. The shellers are the processing arm of our industry. We asked them to help and work with the Federated in developing a plan for advertising and promoting pecans. Between October, 1988 and February, 1989, we met with the shelling industry leaders and came up with a plan which was satisfactory with all facets of our industry. At their mid-winter meeting in February, 1989, the National Pecan Shellers Association approved and offered their support of the basic plan that is S-962 today. The NPSA represents 85% of the shelling industry in the United States. Without their help and support we would not be here today. During the next 45 days the plan was discussed and approved by all eleven associations at specially held meetings of the Federated held in conjunction with the annual meetings of the Southeastern Pecan Growers Association held at Hilton Head, South Carolina and the Western Pecan Growers held at Las Cruces, New Mexico. At each of the meetings the support of all the growers was virtually unanimous, as everyone realizes our industry must begin to work together and move forward if we are to remain viable in the future. Shortly thereafter the Bill S-962 was introduced into the Senate by Senators Fowler and Boren.

We know that the pecan is the cadillac and the king of all nuts. Taste preference tests have shown that people prefer pecans as their favorite, or at least second favorite, 90% of the time. With the trend towards natural foods, pecans are a natural, truly native American nut, high in protein, low in fats with those being unsaturated (the good ones), they have zero (0) cholesterol and are high in the minor

nutrients we all need everyday. Our research has shown that pecans have a tremendous export potential. The almond and walnut industries are currently exporting 57% and 30% respectively, verses the pecan industry doing 2%. The average European eats approximately 15 pounds of tree nuts per year. While our average American eats less than 3 pounds per year. With this kind of consumption and market in other countries for our product we could begin to export a large percentage of our crop overseas.

Our industry feels that if we can have this Bill passed into law it will be the first step toward restoring the financial health of our industry and can continue to supply the American people and, hopefully, other consumers around the world with a healthy and nutritious food product that has been around since our country was founded.

Again, we want to thank this committee for taking its time to listen to our testimony and for considering this legislation vital to the pecan growers throughout the United States. If there are any questions I would be glad to try and answer them now or at any time in the future. Thank you.

Mr. Chairman, members of the Subcommittee, thank you for this opportunity to speak on behalf of S. 918, the Fresh Mushroom Promotion, Research and Consumer Information Act.

I am Dennis Zensen of Sylvan Foods which has mushroom farms in Florida and Pennsylvania. Today I am speaking as Chairman of the Mushroom Council on behalf of what we believe is in the best interest of the mushroom industry.

Over two years ago, a group of individuals who work in the mushroom industry came together to discuss its future. Present were large and small growers -- members of the industry trade association and representatives of the larger companies -- truly a broad, cross section of the industry. Our subsequent discussions and research led us to the conclusion that the fresh mushroom industry overall could best be served by a national, federally sanctioned promotion, research and consumer information program. At that time, the Mushroom Council was formed to pursue this goal.

Throughout this entire process, we have made repeated efforts to reach out to include all individuals and companies in this industry, and continue to do so in order to gain even broader support. This is a small, but highly competitive industry and one which I believe must put aside its rivalries and, through a collective effort, unite together in order to grow and prosper into the 1990s.

We developed a proposal that is embodied in the legislation you are considering today, which would allow mushroom growers to decide whether they would like to develop, finance and operate a nationally coordinated program for fresh mushroom promotion, research and consumer information.

S. 918 would provide for a fresh mushroom order to be issued by the Secretary of Agriculture, but before the order could go into effect -- before any assessments are collected -- it would have to be approved by a majority of eligible mushroom growers.

The rate of assessment would be one half of one cent per pound for the first year and one cent per pound in the second year. The maximum assessment in any following year would be limited to two cents per pound. Based on USDA statistics, this would generate approximately \$2 million the first year and approximately \$4 million in the second year.

The legislation would assess imports as well, but growers or importers of 500,000 pounds or less of mushrooms would be exempt. This may seem like a large amount, but the industry recognizes 500,000 pounds of production as coming from "small producers."

The promotion and research program would be administered by a Mushroom Council, made up of mushroom growers nominated by the industry and appointed by the Secretary of Agriculture. As with other programs, this is truly a self-help effort . . . producer-financed and producer-operated. It gives mushroom growers the opportunity to have a role in the successful marketing of their product after it leaves the farm.

A great deal of discussion within the industry has centered around "what are you going to spend the money on?" The legislation provides authority for a wide range of activities, similar to existing promotion and research programs. The legislation is written to ensure that the money will be used to encourage consumers to purchase more mushrooms through research, improved product quality, retail and consumer education, and assurance of food safety. The allocation of assessment funds is left to the Mushroom Council, subject to approval by the Secretary of Agriculture. The specific activities funded will depend on conditions facing the industry at that time.

Mr. Chairman, I know this subcommittee is keenly aware of the issue of food safety. American consumers now, more than ever, demand complete and accurate information about the foods they eat. Under this legislation, projects could be developed to provide information on the nutritional benefits, the proper selection, storage, handling and preparation of fresh mushrooms -- all of which would be of tremendous benefit to the consumer.

Additionally, the program established under this legislation could provide an excellent vehicle for coordinating, conducting and disseminating research on an industry-wide basis to benefit growers and consumers. In addition the program could serve as a clearinghouse of information and research results to the public.

Research shows that educational efforts for retailers and the food service industry on handling, storage and merchandising are needed and would result in an even better consumer response to this wholesome and nutritious product.

In the retailing area, I would like to note that the Produce Marketing Association unanimously approved a resolution at its most recent meeting supporting this legislation. I would like to provide a copy of their letter for the record. The legislation has also received overwhelming support from food retailers and food service suppliers, which are our first customers.

Quoting from Tony Misasi, of the Grand Union Company, "there is no question that the marketing efforts of commodity boards have had tremendous impact on consumer buying decisions. Through their efforts, the concepts of good nutrition and convenience are no longer fads, but rather a trend that's here to stay."

Mr. Chairman, many think these promotion and research programs are merely generic advertising campaigns and, unfortunately, many people think advertising and marketing are one and the same. We believe that a strong nationally coordinated program can be much more, providing benefits to large and small growers alike, through increased demand.

A key mission for this program could be to determine what can be done to improve product acceptability and ultimately increase grower returns. Statistics demonstrate that while production has been increasing, it has done so sporadically and has not been accompanied by any significant strengthening of demand and therefore, no improved return to the grower. In addition, the price index for other produce items has risen steadily over the past few years, while the mushroom index has remained relatively flat.

This represents a challenge to the industry, but also a real opportunity for growth. I would like to clearly state that we have no desire to pursue any supply management efforts. The goals of this legislation and the program are focused solely on the demand side of the equation.

In order to increase the perceived value of mushrooms, we need to make retailers as well as consumers aware of their good nutritive value, versatility and value-added benefits. We must continue to improve product quality, distribution into the marketplace and ensure product safety.

This industry does not receive any federal benefits, such as price supports or a federal marketing order. The implementation of a fresh mushroom promotion and research program would be at no cost to the federal government.

We are asking Congress to give mushroom growers the opportunity to choose if they want a cost-efficient and effective way, on an industry-wide basis, to participate and share the benefits of a program that can lead us successfully into the 1990s.

We believe quite simply, Mr. Chairman, that if retailers and consumers understand mushrooms better -- proper handling, storage, preparation, along with the nutritional benefits -- they will be more likely to purchase and use mushrooms on a regular basis.

Mr. Chairman, we will be happy to work with this Committee, the Department of Agriculture, and others in the industry to make modifications that may be necessary to strengthen the legislation; but ask that the Committee move expeditiously in its consideration. Thank you.



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June 16, 1989

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J.R. Ranches Company

Wade Whitfield
California Citrus League Commission

Mr. Dennis Zensen
Chairman
Mushroom Council
Route 5, Box 245
Quincy, FL 32351

Dear Mr. Zensen:

The Produce Marketing Association is a national association of 2500 firms and individuals that produce and distribute fresh fruits, vegetables and floral products to the nation's consumers. At the most recent meeting of the Board of Directors of the Produce Marketing Association on May 13, 1989, a resolution was passed in support of H.R. 2187 and S. 918 -- proposed legislation that would establish a fresh mushroom promotion, research and consumer education order.

For nearly forty years, this association has witnessed the benefits that both state and national research and promotion programs have provided to producers and consumers. The information offered by these programs on nutritional benefits as well as on proper selection, storage, handling and preparation is a very important service for all consumers.

We commend the fresh mushroom industry for taking the initiative to improve the marketing of fresh mushrooms. With so much misinformation appearing in various media forms, consumers need accurate, truthful information about the fresh produce items they purchase. The research commitment of the order and the application of those results will enable consumers to make intelligent buying decisions based on fact rather than emotion.

Sincerely,

Robert L. Carey, CAE
Executive Vice President

TESTIMONY OF THE AMERICAN SOYBEAN ASSOCIATION
PRESENTED BY PRESIDENT JAMES LEE ADAMS, JR. BEFORE THE
SENATE AGRICULTURE, NUTRITION, AND FORESTRY
SUBCOMMITTEE ON
DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION
UNITED STATES SENATE
JULY 14, 1989

re: S. 919

THE SOYBEAN PROMOTION, RESEARCH & CONSUMER INFORMATION ACT

Thank you Mr. Chairman and good morning. I am James Lee Adams, from Camilla, Georgia, where I produce soybeans, corn, peanuts, pecans, and several other crops. I am president of the American Soybean Association (ASA), a national, not-for-profit trade association dedicated to enhancing farmer opportunity for profits through its programs on foreign market development, consumer information, research, education, trade policy and government relations.

ASA is a dues-based voluntary membership organization representing solely the interests of soybean farmers. ASA also conducts foreign market development and research projects on a contractual basis on behalf of the American Soybean Development Foundation (ASDF). The ASDF is a national board of directors elected by farmers in each state to administer checkoff funds sent by individual state checkoff boards to the national level. Additionally, ASA conducts international promotion programs in cooperation with the Foreign Agricultural Service (FAS). These are the Cooperator and Targeted Export Assistance programs.

It is a pleasure to appear before the Senate Agriculture, Nutrition, and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion to address S. 919, the Soybean Promotion, Research, and Consumer Information Act. The bill was introduced on May 3, 1989 by Senators Pryor and Bond, and currently has 29 other cosponsors. I have been closely involved in developing the proposal before the Subcommittee today, and I look forward to working with the Committee to move the bill through the process this year.

Background

This year, some 450,000 U.S. farmers are projected to harvest about 1.9 billion bushels of soybeans on some 60 million acres. Soybeans are the world's major source of vegetable protein and oil. Each 60-pound bushel of soybeans yields 80 percent soybean meal and almost 20 percent soybean oil. Just over half the U.S. soybean crop is exported annually, and half is consumed domestically.

Exports of soybeans, soybean meal and soybean oil, worth \$7 billion last year, are vital to farm income. The European

Economic Community (EC) has traditionally been our largest regional market, and until this year, bought half of U.S. soy exports. The Soviet Union, however, has the exciting potential to become our largest customer. Soviet officials indicate they will need and buy increased volumes of soybeans and soybean products. The question is whether it will be U.S. sourced or foreign sourced. Japan buys more soybeans from U.S. farmers than any other single nation in the world. Yet South America has been selling increasing amounts of soybeans to Japan. Other major foreign customers of U.S. soybean farmers include Taiwan, South Korea and Mexico.

Soybeans have been called the "Gold that Grows," and "America's Versatile Miracle." Soybeans dominate the U.S. and world market for vegetable oils and proteins. U.S. consumers use 35 pounds of soybean oil yearly and consume and use other soybean products daily. These include products such as cooking oils, salad dressings, antibiotics, adhesives, food toppings, mayonnaise, cake mixes, wallboard, pet foods, newspaper inks, and importantly, feed for livestock, poultry and aquaculture. Yet when most people think of soybeans, they think of only soy sauce!

Need For Nationwide Soybean Checkoff

Soybean farmers believe they produce a versatile crop with tremendous future potential. World demand for protein and oil is growing as world population expands. But we have a major problem; we are being out-marketed around the world. We want to work harder to make sure that the world consumes American soybeans, rather than letting foreign competitors grab away our market potential. Soybean farmers want to invest their own funds through a nationwide soybean promotion and research program (SPARC) to match and outpace our competitors. Consider the facts:

1) Two major competitors, Brazil and Argentina, captured the majority of the 15 percent increase in world trade for soybeans and soybean products that occurred over the last ten years. Meanwhile, the U.S. lost market share in a growing market! This means lost profits for U.S. soybean farmers.

Every one point market loss at today's world export volume equals 30 million bushels. If the U.S. had maintained its 1979 market share, the U.S. would be exporting 313 million bushels more. That is nearly equal to the entire 1988 production of soybeans in the Delta/Southeast regions combined, or all the production of Iowa. If this lost production was priced at \$6.00 per bushel (a conservative price in today's market) then U.S. farmers have given up almost \$1.9 billion in soybean revenue. That is nearly \$16,000 per soybean farm in the Delta/Southeast region.

Export expansion funded by a nationwide soybean checkoff would likely include major programs targeted at potential markets, including the Soviet Union, India and China. When I was in the Soviet Union just three months ago I was told by a senior Soviet government official that they will need the equivalent of half of the U.S. soybean crop (1 billion bushels) within the next decade to sustain demand for livestock and vegetable oil. More conservative projections estimate a 300 million bushel market potential, still a vast amount. We want to expand work to sell U.S. soybeans to the Soviets.

2) Foreign soybean production jumped 52 percent in the last ten years and acreage is up 22 percent. Two major competitors, Brazil and Argentina, will produce more acres of soybeans than the U.S. by the mid-1990's if current trends continue.

3) Soybean meal exports fell 34 percent and soybean oil exports dropped more than 50 percent from the peak of 1979 to 1988 (the last "normal" crop year).

4) Even though U.S. consumers use more soybean oil than all other vegetable oils combined, 85 percent of consumers cannot name soybean oil when asked to name vegetable oils. In a nationwide survey, only 15 percent say they used soybean oil in the last three months. Dieticians list soybean oil sixth in their choice of vegetable oil despite its healthful qualities.

5) Numerous new uses for soybeans need additional research. We need to develop new uses as well as increase demand for existing soybean products. A well known example of a recently-discovered new use is soybean oil-based printing ink, which still needs aggressive research to be adapted for printing on glossy paper.

6) South American soybeans are perceived by buyers in Europe and the Soviet Union as having better protein and oil content than U.S. soybeans. We need to reach our customers to promote good quality U.S. soybeans. Work is needed to develop high-oil and high-protein yielding soybean varieties to match specific customer needs.

7) U.S. soybean productivity has not kept pace with the competition. For example, national average soybean yields have been virtually stagnant for the past decade as foreign production continues to expand. Yields are especially low in the Southern region, which has the potential to boost yields considerably.

Site-specific research is needed to develop improved soybean varieties and production practices to increase soybean productivity and profit per acre. Each bushel increase in

per acre yield adds \$4.00 per acre in profit at today's national average price and cost of production.

8) Foreign producers have checkoffs which challenge our ability to aggressively promote U.S. soybeans. For example, South American farmers have a 2 percent checkoff for marketing, education and research. Palm oil producers have a checkoff equal to 7.7 cents per bushel.

Soybean farmers are doing the best they can to overcome these problems with limited resources under 26 individual state checkoff programs. It is a patchwork of state-by-state checkoffs. In addition, four states representing 18 percent of national production have no checkoff at all, yet they benefit from the investment of the rest. That is not fair! We need a nationwide, "self-help" program to take action to regain lost markets and capture new opportunities for American soybean farmers.

Development of S. 919

A year ago, soybean farmers started formulating a proposal to bring before Congress to establish a nationwide soybean promotion and research program. A farmer committee representing all soybean-producing regions studied other existing national commodity checkoff programs. Farmers developed the proposal pending before the Subcommittee today, after over a hundred hours of committee meetings, listening sessions with state farmer soybean boards, attitude interviews with over 3,400 soybean farmers and numerous revisions. It was affirmed during a special meeting of ASA's Voting Delegate Body on March 3, 1989 where 272 farmers representing all soybean-producing regions voted to move forward on a united front. (See Attachment A -- Special Resolution.) It is a program that was developed by farmers for farmers who want and support it.

Key Points of S. 919

Soybean farmers told us to remember several very important key principles in developing the proposal. They are included in S. 919:

- Funds Would be Invested to Protect and Boost Soybean Profits: Funds would be used for soybean promotion, research of new uses for soybeans, export market expansion, domestic market expansion, and research to cut production costs.
- Fair: Everyone who benefits invests. Everyone invests at the same rate of one-half of one percent (0.005) of the net sales proceeds. Net sales allows for adjustments based on elevator discounts and regional discounts and differences. That's equal to only 50 cents on every \$100 in soybean sales.

- Farmer-run: Farmers at both state and national levels would make decisions. State checkoff boards would continue to be organized as they are now under individual state law. A national United Soybean Board comprised of soybean farmers nominated by state checkoff boards would decide how to use nationwide checkoff funds. USDA would provide final approval and oversight.
- 50 percent of Funds Invested at State Level: This would maintain strong state research and promotion programs. Importantly, current state funding levels are specifically protected in the legislation. Each state soybean checkoff would receive an amount equal to its current funding (average FY84-88, dropping high and low years). After the vote, states would be guaranteed funding no less than one cent per bushel times that state's 5-year average annual production.
- Strictly LIMITS national administrative costs to 5 percent or less: This means at least 95 cents of every dollar would go to promotion and research projects.
- Farmer Referendum: S. 919 gives 18 to 36 months for the program to work (essentially two crop years). Farmers would then vote on the program based on its results. The rate could only be changed subject to farmer referendum. Farmers would be able to also trigger a recall referendum upon petition to the Secretary of Agriculture.

Farmer Surveys

Farmers also told us these key concepts were very important in four national independent farmer attitude surveys. Phone interviews with 3,400 farmers randomly selected from all soybean producing states in November and December, 1988, and January and April, 1989. Over 90 percent of those surveyed were NOT members of ASA. The results were:

- 75 percent favor a nationwide soybean promotion and research program at the rate of one-half of one percent of the net sales proceeds.
- 89 percent say they want it farmer-run.
- 79 percent want a maximum 5 percent administrative cap.
- 76 percent want no refunds.
- 71 percent want ASA to be the contractor eligible to implement and manage the national funds from the checkoff.

- 71 percent want states to keep 50 percent of the funds for in-state programs.

Farmers polled told us that the five top problems the nationwide soybean promotion and research program should address are:

1. Expanding exports in countries like the Soviet Union, India and China.
2. Promoting new uses.
3. Expanding domestic markets.
4. Protecting markets by promoting healthful soybean oil.
5. Research to cut farmer's production costs.

They outlined an aggressive program for us. These farmers are challenging us to be leaders, to create bold programs to solve these compelling problems. We have a versatile crop, but it takes money to invest in needed research and promotion.

Checkoff Rate & Possible Programs

Based on the rate formula in S. 919, about \$50 million to \$60 million would be generated annually. Of this, 50 percent would remain under the control of qualified state soybean promotion and research farmer boards (not state soybean associations) and 50 percent would be under the control of the national program directed by the United Soybean Board, subject to USDA oversight.

While farmers on qualified state soybean boards and the United Soybean Board would develop specific programs in promotion and research, ASA developed a sample list of programs which could be developed to tap market potential and focus needed research. Attached is a list of these sample investment opportunities in domestic marketing, international marketing, soybean research, and state research and promotion. (See Attachment B)

Over the years, soybeans have been a profitable crop for U.S. farmers necessitating minimum government support because of strong exports and open access to foreign markets. But pressures are increasing in the EC and elsewhere to reduce the export opportunities which are profitable to U.S. soybean farmers. For this reason, S. 919 would authorize the use of funds for activities aimed at developing, maintaining, and expanding foreign markets for soybeans and soybean products. Soybean farmers have said this is an important, essential element of an effective market promotion program.

Since the U.S. soybean industry depends on export sales for half of its sales, it must have access to foreign markets and is very vulnerable to import barriers. This is of utmost importance for U.S. soybeans, unlike some commodities with national promotion programs in place which do not depend on the export market to the extent as U.S. soybeans. No matter how effective market development programs are, they cannot bring about export sales if the market is closed to imports or if our products face unfair trade practices.

We respect sincerely the role of the U.S. government to negotiate with foreign governments, to seek direct action by foreign governments and to represent our interests in multinational bodies. We do not believe the USB or any of its contractors should or legally could negotiate trade policy with foreign governments. However, we believe that there is an important role for the USB or its contractors, in cooperation with the U.S. government, to provide technical assistance, and build understanding among allied industries, foreign officials and customers of the benefits of using U.S. soybeans and soybean products.

ASA conducts foreign market development from 11 overseas offices, of which three are co-located with other FAS Cooperators in the U.S. Agricultural Trade Offices. Foreign governments make purchasing decisions or control the importation of agricultural products in over 75 percent of the countries in which we conduct or want to conduct market development programs. This includes countries such as the Soviet Union, China, India and the entire Eastern Bloc. It is essential to develop and maintain contact with foreign government officials of these and other closed-market economies which have tremendous market potential for U.S. soybeans and soybean products. To capture this huge potential, checkoff funds must be allowed for programs which educate foreign government decision-makers about the benefits of using U.S. soybeans and soybean products.

Attachment C provides examples of work done by ASA with government monies to combat existing barriers to trade and prevent potential barriers.

Modifications

The American Soybean Association has reviewed the comments of other farm organizations and USDA and has agreed to support some modifications. We understand that amendments will be offered which represent these changes. The major changes are:

- Refunds will be allowed until the initial referendum.
- The 30 percent requirement for a recall vote will be reduced to 10 percent with no more than one-fifth from any 1 state.

- A provision will be included to provide a mechanism for calling a reconfirmation vote every five years. The provision will provide farmers an opportunity to register their desire for a reconfirmation vote with the Extension Service on a well-publicized day every five years.
- The definition of "lobbying" is tightened. We do not want any checkoff funds to be used in lobbying efforts.
- Modifications will be made to assure that neither the USB nor its contractors could negotiate trade policy with foreign governments.

Conclusion

As soybean farmers, we face serious challenges, even threats, to our future in farming. These are threats from foreign competitors who are taking over our traditional markets and also capturing new growth in world demand. A nationwide soybean checkoff would help build consumer loyalty to soybeans and soybean products in the U.S. and abroad. And importantly, numerous new uses for soybeans await needed research and development.

S. 919 would extend the "self-help" concept endorsed by soybean farmers in 26 individual state programs to the national level. They tell us they like current programs, but that they want to do more promotion and research to aggressively out-compete and out-market the competition. A nationwide soybean promotion and research program would provide valuable investment to achieve these goals.

Soybean farmers have a choice. They can sit back and take what comes their way, or they can take action with their own "self-help" program to build their future, their profits, their livelihoods. A strong soybean price from the marketplace accompanied with reduced production costs will encourage expanded farmer profits and competitiveness, which is preferable to expanded federal support.

If enacted, S. 919 will put a program in place to rebuild and increase profits for U.S. soybean farmers. Importantly, it would be fair, farmer-run, maintain states' rights, cap administrative costs and preserve each farmer's right to vote his or her future. We ask Congress to give us this opportunity. We look forward to the day when we can begin investing in future soybean profits for ourselves and our children.

ASA looks forward to working with the Subcommittee on S. 919. Thank you for the opportunity to appear before you today. I will be pleased to address any questions you have.

1	SPECIAL RESOLUTION	1
2	Soybean Promotion and Research Campaign (SPARC)	2
3	[Adopted at March 3, 1989, Special Meeting of ASA Voting Delegates]	3
4	Whereas, U.S. profits from soybean farming are under attack from	4
5	competitors from South America to Malaysia;	5
6	Whereas, there are tremendous opportunities for expanded soybean	6
7	profits in developing new uses, in developing markets and in	7
8	existing markets;	8
9	Whereas, implementing programs to capture the opportunities	9
10	require investments of in state, national and international	10
11	promotion and research programs;	11
12	Now, therefore, ASA's Voting Delegates authorize ASA's Officers	12
13	and the ASA Board of Directors to pursue legislation authorizing	13
14	a farmer-controlled united soybean checkoff designed to expand	14
15	U.S. soybean exports; protect and expand domestic soybean markets;	15
16	develop new or improved uses for soybeans and soybean products;	16
17	to improve production efficiencies; inform consumers and farmers	17
18	about soybeans; and use trade policies to provide market access	18
19	for U.S. soybean and soybean products.	19
20	Recognizing that final legislation will be the subject of	20
21	negotiation with Members of Congress, the ASA Voting Delegates	21
22	instruct ASA's Board and Officers to develop a united nationwide	22
23	soybean checkoff with the following objectives:	23
24	1. Everyone who benefits invests equally and fairly. This means	24
25	everyone pays the same rate with no refunds permitted; and	25
26	that the checkoff is assessed at the first point of sale	26
27	and paid to state of origin.	27
28	2. Maintains strong farmer control of the checkoff through a	28
29	national checkoff board that provides state representation	29
30	based on the state's soybean production. Such a program of	30
31	farmer control should be developed in a structure that	31
32	minimizes duplication of existing state and national soybean	32
33	research and promotion programs. Legislation should avoid	33
34	structural changes in existing state and national checkoff	34
35	board and will retain the current weighted vote formula.	35
36	3. Caps national administrative costs at no more than 5% of	36
37	projected annual USB receipts.	37
38	4. Provides 50% of the net checkoff funds to states to maintain	38
39	strong state research and promotion programs. State checkoff	39
40	boards would be assured the state's current funding level	40
41	until passage of the referendum, and thereafter an amount	41
42	no less than what would have been generated under the	42
43	preexisting state checkoff program.	43
44	5. Meets congressional checkoff requirements with a minimum	44
45	of change in existing state and ASA programs, structure and	45
46	farmer-control.	46

Attachment A-2

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|----|--|--|----|
| 1 | 6. | The united checkoff rate cannot be increased or decreased | 1 |
| 2 | | without a vote of soybean farmers in a referendum conducted | 2 |
| 3 | | under the same procedures as applied to the initial referendum. | 3 |
| 4 | | The initial checkoff rate will be $\frac{1}{2}$ of 1% (.005) of net market | 4 |
| 5 | | price. | 5 |
| 6 | 7. | Prohibits using the national's share of checkoff funds for | 6 |
| 7 | | influencing legislation. | 7 |
| 8 | 8. | Provides for a farmer referendum no earlier than 18 months | 8 |
| 9 | | nor later than 36 months after the final order is published | 9 |
| 10 | | in the Federal Register. Legislation provides provision for | 10 |
| 11 | | farmers to petition for a recall referendum. | 11 |
| 12 | 9. | Pending the outcome of a nationwide checkoff vote, all | 12 |
| 13 | | state checkoff programs subject to periodic reconfirmation | 13 |
| 14 | | votes, would have such votes suspended during the period | 14 |
| 15 | | before the national vote and then resume for the remainder | 15 |
| 16 | | of the unexpired period should the nationwide vote be | 16 |
| 17 | | unfavorable. | 17 |
| 18 | The ASA Voting Delegates here assembled authorize the designated | | 18 |
| 19 | ASA farmer-leaders the authority to negotiate with Members of | | 19 |
| 20 | Congress to seek a united nationwide soybean checkoff with these | | 20 |
| 21 | basic objectives. | | 21 |

INTERNATIONAL MARKETING

[Permits export promotion expansion. Could include new offices in Soviet Union and China and expanded programs. Does not include programs funded through the Foreign Agricultural Service (FAS) contract or the Targeted Export Assistance (TEA) grants.]

● Expand Exports to the Soviet Union

Market potential: 300 million bushels of soybeans

Program plans: The market opportunity and improved political climate now exists for expanded U.S. soybean and product utilization. To capture this opportunity, ASA must intensify market development activities designed to increase consumption of soybean meal and soy oil. To accomplish this an increased presence and activity level is required leading to the opening of a future Moscow office.

● Boost Sales to China

Market potential: 350 million bushels of soybeans

Program plans: The Chinese government has a stated objective of increasing compound feed production from 9 MMT currently to 100 MMT/year by the year 2000. To assure that soybeans are the major protein source, an aggressive market development program must be launched. This two pronged program must first create a domestic demand for soybeans, minimizing China's exports, thus hastening the day that China must begin importing on a constant basis U.S. soybeans and products. An increased technical service staff and expanded activities will be required.

● Traditional Foreign Market Development Activities

Market potential: 5%/year worldwide demand for soybeans

Program plans: Feeding trials. Seminars. Technical support. Trade teams to the U.S. ASA's traditional 400 demand-building activities carried out in 84 countries from ASA's 11 foreign offices remain the foundation of your international effort. This long term building of soybean demand has lead to a 4-5% annual growth! To expand on this growth, U.S. soybean farmers must retain our developed markets; however, new markets in less developed countries must be aggressively developed to provide for future market growth.

SOYBEAN RESEARCH

[Would include major biogenetic research projects to create new uses for soybeans and to cut farm production costs. Does not include state research programs which could total \$10 - \$15 million.]

Trimming the cost of producing soybeans is the most direct and quick way to put dollars in U.S. farmers' pockets and to increase profit potential through increased demand in world soybean markets. Many market-driven research areas are currently underfunded and many research projects can't be implemented for farmers because funding isn't available at either the state or national level. And, state and national research funds appear to be declining.

Six key research areas could provide an immediate return to U.S. farmers if they were adequately funded:

- Launch a major campaign to develop new non-feed and non-food uses of soybeans and soybean products. These research efforts are important to expand soybean uses and future soybean markets.
- Implement research to reinforce technical studies showing soybean oil, protein and fiber have superior nutritional qualities. Dietitians, nutritionists, medical specialists and other health leaders will be more likely to recommend soybean products if it is backed with technical research studies.
- Launch a major biotech campaign to engineer soybeans to strengthen tolerance to environmental stress; improve protein and oil composition; reduce need for agricultural chemicals which causes environmental concerns; cuts costs and increase yields.
- Develop research to increase control of soybean pests. Additional research would minimize the economic impact of disease, nematodes and insects which reduce soybean productivity. The research would also develop better pesticides and pesticide application methods and development of soybeans genetically resistant to pests.
- Increase research emphasis to develop and promote comprehensive production/management systems so farmers can cut costs and maximize profits.
- Develop expert systems to aid farmers in crop management. Research would include development and field testing plant growth models; irrigation scheduling aids; least-cost pest control; reducing fixed costs and machinery costs; assistance in meeting state and federal environmental, financial and regulatory requirements.

These are the six national research areas. In addition, we project states will be able to invest an additional \$20 million for state production and utilization research programs.

Together, funding research at the state and national levels, soybean farmers can reverse the current trends and improve both soybeans profitability and market share.

DOMESTIC MARKETING

[Permits National TV Campaign promoting soybeans and soybean products. Does not include state funds used to buy additional commercials on local broadcast stations, magazines or newspapers.]

● Food Area

Market potential: Expand 100 million bushels by 1999.

Program plans

- SoyMark: Used by firms like Procter & Gamble, Lever Brothers, Wesson Food, Odell's Popcorn (movie theaters), Deli Express (microwave popcorn), Eggo Frozen Food, and major bakeries. SoyMark will be promoted in 8,000 major supermarkets with industry coupon support. (SoyMark available June 1, 1989.)
- Television advertising to support introduction of SoyMark and to build consumer interest and demand for products carrying the SoyMark.
- Advertising campaign in major consumer magazines to boost the demand for products using the SoyMark. Direct mail to the ag community requesting farmers to distribute coupons promoting SoyMark products.
- To increase consumer awareness, 6,500 fast food restaurants and 3,500 table top restaurants will be selected for joint promotion where ASA will support printing of menus, table tents, etc. The promotion will be supported by radio advertising in selected markets.
- Measurement and program evaluation to insure that messages reach right audiences to boost soybean sales.

● Non-Food Area

Market potential: Expand 200 million bushels by 1999.

Program plans:

- Develop new food and non-food uses for soybeans.
- Support poultry and livestock producers with targeted end-users promotion.
- Develop and implement programs which will position soy products as nutritional value added products.
- Develop tools, which volunteers can use in promoting soy ink and dust suppression; such as soy ink fountain pen, air can with soy oil for dust demonstrations, etc. Will include direct mail promoting soy oil for dust suppression.

STATE RESEARCH AND PROMOTION

The nationwide Soybean Promotion And Research Checkoff (SPARC) should generate \$20 to \$30 million of funds for state research and promotion programs. The state boards will be responsible for determining how to invest 50% of the SPARC funds.

While each state research and promotion board will be responsible for making final decisions on how to invest state funds, we expect states to invest in the following types of programs.

Research

- Production Efficiencies ... trying to uncover ways to increase the efficiency and reduce costs associated with growing soybeans. This research will help U.S. farmers be competitive with soybeans grown in South America.
- Disease ... trying to find new varieties or new production methods to reduce diseases like cyst nematodes, sudden death syndrome and others which rob U.S. farmers of millions of dollars in profits. This research will be tailored to the major diseases affecting each state.
- Biotechnology ... farmers will be able to take advantage of this new research tool to build profits through better efficiency, reduced diseases, new varieties ... new uses.
- Better quality ... trying to increase quality characteristics to meet needs of global customers ... protein and oil content, shape and size, etc. Such research could help farmers in a state capture growing food niche markets in Asia and other areas of the world.

Promotion

- Local advertising ... states will be able to use national television, radio and print advertising and run these on stations within the state.
- Local promotion ... states will be able to help reprint menus for restaurants agreeing to use soybean oil and the SoyMark in their restaurants.
- Local promotion ... states will be able to mount major promotion efforts ... in supermarkets ... in grain elevators (use of soybean oil to control dust, reduce explosions and save lives) ... in newspapers/magazines (soybean oil inks).

What's the result?

Expanded sales. Lower production costs. Better quality soybeans. Higher profits.

ROLE OF PRIVATE SECTOR TO REDUCE EXISTING BARRIERS TO TRADE
AND PREVENT POTENTIAL BARRIERS

ASA has a long history of working with the Foreign Agricultural Service and the Office of the U.S. Trade Representative to combat existing barriers to trade and prevent potential barriers.

Example: EC Fats & Oils Tax

For example, in 1986 and 1987 ASA carried out an aggressive program to assist the U.S. Government (at their request) to prevent adoption by the European Community of a tax on fats and oils. The tax would have doubled the price of soyoil in Europe with the proceeds being used to subsidize import-displacing oilseed production in the EC. At stake was the market for one in five rows of U.S. soybeans.

In cooperation with the U.S. government, ASA helped defeat the tax by educating EC user groups on the tax's implications. We also expressed our concerns with the tax to EC government officials. In every case our activities were carried out with the knowledge, input, and encouragement of officials of the U.S. government. Through our efforts and those of the U.S. Government the tax was defeated.

Example: Prohibition on Sale of Soybean Oil in Greece

Another example of a trade barrier the soybean industry was instrumental in getting removed was in Greece. Prior to 1986 the Greek government forbade the sale of soybean oil. ASA worked with the Greek private sector and government officials in cooperation with our government to encourage removal of the ban. Simultaneously, the Greek government felt pressure upon entering the EC to lift the ban. These forces converged, and the ban was lifted on the sale of soybean oil in Greece.

Afterwards, we implemented a consumer advertising and promotion program for soybean oil with financing from the Targeted Export Assistance (TEA) Program. As a result today soybean oil is supplying 15 percent of the Greek vegetable oil markets. However, getting access to the market was the first step in this process.

These are only two of the foreign barriers facing U.S. soybeans. Recently, ASA submitted a list of currently existing barriers in 23 countries that we estimate, if removed, would result in an additional \$855 million in

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annual sales of U.S. soybeans and soybean products. That is equivalent to over \$2000 per soybean farmer in the U.S.

It is important to systematically address these barriers to soybean export sales in the future much the same way as they have been addressed in the past. Even after getting access to the markets, there is much to do to turn the potential demand into real export sales. No matter how effective market development programs are, they cannot bring about export sales if the market is closed to imports.

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BEFORE THE SUBCOMMITTEE ON
DOMESTIC MARKETING, CONSUMER RELATIONS AND NUTRITION
OF THE SENATE COMMITTEE ON AGRICULTURE

HEARINGS ON LEGISLATION TO AMEND THE POTATO
RESEARCH AND PROMOTION ACT OF 1971

STATEMENT BY
ARNOLD ROACH AND MIKE COREY

Arnold Roach
Grower
State of Maine

and

Mike Corey
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National Potato Council

Submitted: July 14, 1989

BEFORE THE SUBCOMMITTEE ON
DOMESTIC MARKETING, CONSUMER RELATIONS AND NUTRITION
OF THE SENATE COMMITTEE ON AGRICULTURE

HEARINGS ON LEGISLATION TO AMEND THE POTATO
RESEARCH AND PROMOTION ACT OF 1971

STATEMENT BY ARNOLD ROACH AND MIKE COREY

Mr. Chairman, my name is Arnold Roach. I am a grower from the State of Maine. I am accompanied today by Mike Corey, who is Vice President of Legislative Affairs for the Council.

We are appearing today before your subcommittee on behalf of members of the National Potato Council. The Council represents over 13,000 potato growers located in 38 states.

We request your consideration and support of legislation that would provide the National Potato Promotion Board (Board) with improved methods of collecting assessments to conduct promotion and marketing research and provide consumer education about the use of potatoes.

We are extremely proud of what we have accomplished since the Act was passed in 1971. We think we have added significantly to the economic well-being of potato producers in this country.

We are especially pleased with our promotion programs which have drastically changed consumers perception about the nutritional qualities of potatoes. Once people thought of potatoes as a food that added to the problems of obesity. Now, consumers are generally aware of the fact that potatoes are one of the best health foods that a person can eat.

But with our tremendous success over the years there have also been significant changes in both production and marketing of potatoes. It is these changes that prompt us to be here today to request some changes in the 1971 law. Let me elaborate.

The present statute authorizes assessments only on potatoes produced in the United States. The proposed legislation would authorize assessments on imported potatoes. It would assure that equitable

associated with the proposed legislation be made without another producer referendum. Sixteen years of collections on a voluntary basis is a referendum in and of itself. The proposed legislation would direct the Secretary of Agriculture to amend the current Potato Research and Promotion Plan so as to put the needed changes into effect.

The Plan would not be left without safeguards for accountability. They would be the same as now exist with the beef program and several other industry supported research and promotion programs. The Secretary and his staff would still monitor our program and could still terminate the Plan, or act upon the request of ten percent of growers to hold a referendum to determine whether producers want to terminate or suspend the Plan.

Let me summarize. The proposed legislation would correct present inequities that exist under the Potato Research and Promotion Act of 1971. It would result in assessments being levied on imported potatoes as well as potatoes produced in the United States, in the elimination of a refund provision, and in making the needed changes without conducting a referendum among potato producers. The results of the efforts of the Board to substantially improve the markets for potatoes has benefitted all producers. This means foreign producers who export to the United States as well as all producers in the United States regardless of their size or geographic location. The Council feels strongly that because all producers share in the benefits of the program, all producers should pay their fair share of the costs involved.

Mr. Chairman, we deeply appreciate the opportunity to appear before your subcommittee. I or my colleagues would be glad to answer any questions that you or the subcommittee members may have.

treatment is afforded domestic potato producers and foreign producers who export potatoes to the United States. The advertising and consumer information programs carried out the Board since 1971 have been strictly generic in nature.

That is, there have been no specific references to any particular brand of potatoes, nor has there been any effort to distinguish between potatoes produced in the United States for human consumption and potatoes that are imported. We would continue this equal treatment in our promotional programs.

The need therefore for the Board to have authority to assess imported potatoes is clear. The extent to which the market is enhanced, through the Board's activities, for potatoes produced in the United States, that same market enhancement is afforded imported potatoes. But, even though the market is enhanced for the imported product, foreign producers are not paying their share of the costs associated with the Board's research and education program. The proposed legislation would correct that inequity.

Present legislation provides for refunds on assessments. That is, if a potato producer wishes not to participate in the research and education program carried out by the Board, then that producer can petition the Board and request a refund of the assessments levied on the producers' potatoes sold in commercial channels.

The current refund provision results in a situation where about five percent of growers refund about fifteen percent of total assessments collected. Too many large producers are getting a "free ride" on the program. Again, potato producers, as an industry group, view this result as inequitable.

Only part of the producers are paying the assessment, but, all producers are benefiting from the market expansion activities of the Board. The proposed legislation would correct that inequity.

The current activities of the Board, authorized by the Act, were instituted after a referendum among potato producers. That initial referendum showed overwhelming support among potato producers for the market expansion program. A subsequent referendum among growers conducted in 1984 to determine whether the maximum allowable assessment rate should be raised again showed extensive support for the program. Given that record of support among producers for the program and considering the substantial costs and time associated with the conduct of a referendum among the 13,000 producers, the Council is proposing that the changes

STATEMENT OF W. BRUCE HEIDEN, PRESIDENT,
NATIONAL COTTON COUNCIL OF AMERICA

Mr. Chairman, I am Bruce Heiden, President of the National Cotton Council and a cotton producer from Buckeye, Arizona. The Council is the central organization of the U.S. cotton industry, representing cotton producers, handlers and processors from the Carolinas to California.

I sincerely appreciate this opportunity to present testimony in support of one of our industry's highest priorities -- a uniform procedure for collecting Research and Promotion assessments. The proposed legislation -- The Cotton Research and Promotion Amendments Act of 1989 -- has been endorsed by fifty-three (53) local, state and regional cotton and general farm organizations, as well as national organizations representing ginner, warehousemen, crushers, cooperatives, merchants and textile manufacturers. A list of these organizations has been submitted with my written statement.

The proposed legislation, which is similar to legislation unanimously approved by the House Agriculture Committee in 1987, would amend The Cotton Research and Promotion Act of 1966, as amended in 1976. The Research and Promotion Act authorized -- subject to approval by referendum -- an assessment on domestically produced cotton. Producers subsequently approved the referendum and formally created a highly successful, national promotion program.

The proposed amendment would require the Secretary of Agriculture to conduct a referendum among cotton producers to determine if a majority of those voting approve eliminating the existing refund authority and the collection of an equal assessment on the upland cotton content of imported yarn, fabric, apparel and home furnishings products. If a majority of producers approve the amendment, the refund authority for assessments collected on domestically produced cotton would be terminated and an assessment on the upland cotton content of imported cotton and cotton products would be collected and placed in escrow.

A second referendum would be conducted within 15-30 months among producers and importers who have paid an assessment. Unless a majority of producers and a majority of importers disapprove, the refund authority would continue to be suspended and assessments collected on imported products would be released from escrow and collection continued.

Subsequently, the legislation requires the Secretary to contact producers and importers every five (5) years to advise that if ten (10) percent of those voting in the previous referendum make the request, a referendum would be held to determine if the amendment should remain in force.

The proposed amendment would continue to provide authority for the assessment rate to be established at a level of \$1.00 per bale plus up to one (1) percent of the value at the first point of sale. The current assessment is \$1.00 per bale plus six-tenths of one percent of the value. The value of the cotton content of imported products would be established in a fair and equitable manner by the Secretary and the assessment rate would be the same as that for domestic production.

The Secretary is also authorized to appoint importer representatives to the Cotton Board after consultation with importer organizations.

Mr. Chairman, the record of success achieved by the Cotton Research and Promotion Program since its inception is remarkable. Cotton lost significant market share to synthetic fibers during the 1950's and 1960's. Cotton Incorporated's effective consumer-based advertising program integrated with sound technical servicing and product development efforts has enabled textile and apparel manufacturers to transform the fiber into value-added products demanded by the consumer. The program has produced outstanding results in a number of areas, including the highly successful promotion of cotton sweaters and the development of permanent press slacks.

There has also been some outstanding agricultural research which developed the highly efficient and cost effective cotton module system used by many farmers today. Cotton's share of all fibers sold at retail for apparel and home furnishings has increased steadily since 1975. According to a respected independent market research firm, cotton's domestic market share advanced from 34% in 1975 to 49% in 1988. This data demonstrates that the program has been effective and that growers are receiving a valuable return on their investment. Manufacturers and retailers benefit by having access to improved processing technology, innovative, attractive product lines, and promotional assistance in making consumers aware of high quality, aesthetically pleasing cotton products.

While the cotton promotion program has been successful, the future offers both problems and opportunities. Since the assessment is based on volume and value which fluctuate, the Cotton Board's inability to provide adequate and level funding to Cotton Incorporated has hampered the industry's ability to take full advantage of the market opportunities. Further, the producers who choose to obtain a refund of their assessment, and importers of cotton and cotton containing products, receive the same benefits as producers who participate.

Currently, the Cotton Board retains between 65 and 70 percent of the assessments it collects, and, of course, no assessment is made on imports. It is interesting to note that the majority of producers who request refunds indicate they are not dissatisfied with the program; rather, they frequently cite

reasons such as the following for their refund request: (1) financial problems, (2) other growers in the area are getting refunds, and (3) imports are benefiting from the research and promotion program.

The last two reasons -- refunds and importers benefiting from the grower funded program -- are troublesome matters of equity for most producers. It is understandable that participating U.S. producers would want other U.S. producers to pay their fair share of a program that benefits all. It is even more understandable that they would want to see the assessment made on imported cotton and cotton products.

USDA statistics confirm that approximately five (5.0) million bale equivalents of raw cotton entered the United States during calendar year 1987 in the form of textile and apparel products. Furthermore, the same statistical analyses confirm that eighty-one (81) percent of the cotton in those products was foreign grown. Consequently, U.S. cotton producers are funding a highly successful program to build domestic demand, but some forty percent of U.S. domestic cotton consumption is supplied by imported products containing foreign grown cotton.

The proposed legislation would, if passed into law and confirmed by referendum, simply require a contribution from all who benefit from the program, including importers, who enjoy a forty (40) percent share of the market being developed and maintained.

The program would be GATT consistent because the assessment rate for imports would be the same as for domestically produced cotton. We believe the proposed amendment meets the test of GATT Article III.A which provides:

"...shall be accorded treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use."

Some have suggested that the proposed amendment violates the GATT because imported extra-long staple cotton could be assessed, but is not subject to the domestic assessments. It should be noted that less than two (2) percent of the world's cotton production is ELS style cotton. Furthermore, there is a separate, much higher assessment on domestically produced ELS (Supima) cotton than the research and promotion assessment on upland. And, importantly, the proposed legislation specifies that only the upland cotton content of imported products is subject to assessment.

Another GATT related concern previously expressed is based on Article 9 of the Multi-Fiber Arrangement (MFA) which specifies that countries should refrain as far as possible from taking actions restricting imports outside those restraints

under the MFA. It is difficult to see how an assessment of less than one (1) penny on an item selling at retail for more than twenty (20) dollars serves as an import barrier.

Some would argue that the assessment should be voluntary. Unfortunately, importers would probably request refunds and the Cotton Board would record a deficit because the legislation requires reimbursement to all agencies who assist in administering the program. Other organizations have suggested that the assessment be voluntary for domestic producers and mandatory for importers, but that would seem clearly to violate GATT.

In an effort to minimize the administrative burden on agencies who assist in collecting the assessment on imported products, the legislation authorizes the Secretary to establish de minimis levels and exempt small entries from the assessment. The Secretary would also be authorized to reduce the assessment on imported goods by a percentage equivalent to the proportion that exports of U.S. cotton might be reentered in imported products -- this adjustment would eliminate the potential for double assessments on U.S. cotton which is exported and subsequently reentered in textiles, apparel, and home furnishing products.

Mr. Chairman, cotton's intense competition with synthetic fibers continues, and the volume of imported products containing foreign grown cotton now accounts for nearly half of U.S. domestic cotton consumption at retail. The highly successful cotton research and promotion program must be expanded to meet these challenges. This legislation simply authorizes a referendum to allow producers to express their support for a uniform assessment and would restore equitable financing by requiring importers -- who have enjoyed unprecedented growth and access to a highly profitable market -- to contribute their fair share. Furthermore, producers and importers are provided an opportunity to vote prior to any changes in the program and to reaffirm their support on a periodic basis.

There are those who contend that consumers will ultimately pay for these programs. The assessment -- which averages about \$2.60 per 480-lb. bale -- would be less than one (1) cent on a pair of denim jeans. Mr. Chairman, you can also be assured that the increased funds can be devoted to programs -- not bricks and mortar or other overhead.

And finally, it is important to note that the administration of the program is not unwieldy and that the legislation requires reimbursement of expenses to agencies involved in the administration plus reimbursement to USDA for the referenda expenses. In fact, in evaluating the 1987 legislation, CBO concluded that the legislation would result in an annual cost savings because the promotion programs would increase offtake with no additional federal outlays.

Cotton producers need and support a well-managed, adequately-financed and effective research and promotion program. With a more stable and equitable funding base, as provided in this legislation, Cotton Incorporated can expand proven programs. Increased consumption will ultimately result in profitable marketing opportunities for U.S. cotton farmers, lower government costs and a better product. Cotton's program was among the first self-help, promotion programs. In 1985 Congress authorized national promotion programs for beef and pork which included uniform assessments and assessments on imported products. The U.S. cotton industry respectfully requests your support for the opportunity to expand its program which has a proven track record and we urge you to act favorably on the other research and promotion proposals which are the subject of this hearing.

Thank you for the opportunity to testify on this important legislation.

BEFORE THE SENATE SUBCOMMITTEE ON
DOMESTIC AND FOREIGN MARKETING AND PRODUCT
PROMOTION OF THE SENATE COMMITTEE ON AGRICULTURE

HEARINGS ON LEGISLATION TO AMEND THE
AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

STATEMENT BY MARK HOUSTON AND MIKE DURANDO

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California Kiwifruit
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California Grape and
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Submitted: July 14, 1989

BEFORE THE SENATE SUBCOMMITTEE ON
DOMESTIC AND FOREIGN MARKETING AND PRODUCT
PROMOTION OF THE SENATE COMMITTEE ON AGRICULTURE

HEARINGS ON LEGISLATION TO AMEND THE
AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

STATEMENT BY MARK HOUSTON AND MICHAEL DURANDO

We are filing comments for your subcommittee on behalf of the members of the Kiwifruit Commission and the Grape and Tree Fruit League. These two organizations represent growers of virtually all kiwifruit, grapes and tree fruit produced in the state of California.

We are requesting your consideration and support for S. 992 -- introduced by Senators Alan Cranston and Pete Wilson. This legislation amends Section 8e of the Agricultural Marketing Agreement Act of 1937, so as to add kiwifruit, peaches, pears, nectarines, and plums to the list of imported commodities that must meet the minimum quality standards of domestically produced fruits, vegetables and specialty crops marketed in the United States.

The Agricultural Marketing Agreement Act authorizes producers and handlers of fruits, vegetables, and specialty crops an opportunity to enter into an agreement with the Secretary of Agriculture to develop programs to stabilize and improve the markets for their products. These programs, known as marketing orders, can be put into effect only after extensive public hearings and approval in a producer referendum which indicates requisite majority approval of the marketing plan. Once producer approval has been attained, however, all producers and handlers in a defined production area are subject to the provisions of the Act. Currently, some 50 agricultural commodity industries in the United States market their products under the provisions of a market order. A range of marketing strategies can be adopted by industries

which voluntarily elect to use marketing orders. For example, they can collect uniform assessments to fund programs to conduct production and marketing research, advertise and promote, assure orderly flows to market, discover the most profitable market outlets, and determine minimum qualities to be marketed in commercial channels.

Growers of kiwifruit, peaches, pears, nectarines and plums now market their fruit under the auspices of a marketing order. The principal feature of the three marketing orders is the use of the minimum market quality provision of the Act. The main quality attributes of concern are levels of maturity, size and physical appearance.

Of the 50 or so marketing orders in effect in the United States, over three-fourths have established minimum quality standards for the product to be marketed. One reason for the widespread popularity of the minimum quality provision is that many of the industries with marketing orders have also adopted advertising and promotion programs, and they know it does not make good business sense to try to enhance sales of a poor quality product through advertising and promotion.

It is clear that the efforts of a domestic industry to market only a high quality product under the auspices of a marketing order can be severely undercut by imports of a like commodity that is of inferior quality. Consumers often cannot distinguish between food products produced domestically and those that are imported.

However, Section 8e of the Act provides a remedy to the problem of domestic producers who want to market a high quality product having to compete with an inferior imported product. Section 8e simply provides that if domestic producers adopt through a marketing order a plan to establish minimum quality standards, then like imported commodities marketed domestically must meet those same minimum quality standards. By ensuring quality consistency, Section 8e of the Act provides benefits to both domestic and foreign producers as well as importers of the affected commodity. To the extent the market is enhanced through improved quality attributes for the domestically produced commodity, that exact same enhancement is afforded the imported commodity.

There are currently some 20 domestic fruit and vegetable and specialty crop industries that have Section 8e authority in their marketing order programs. The efforts of these industries to market a high quality product, whether domestically produced or imported, have widespread support among the various commodity groups who have elected to establish minimum quality standards.

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The rationale of the California kiwifruit, peach, pear, nectarine and plum growers to add their products to the list of crops currently being marketed under the auspices of Section 8e of the Act becomes clear when one considers such factors as emerging trends in world production and trade and the self help efforts by our producers to market a high quality product to the consuming public.

The California Kiwifruit industry is relatively new. In 1980, 10,000,000 pounds were produced, and by 1987, production increased to almost 60,000,000 pounds. Industry leaders are optimistic that the upward trends in production and per capita consumption of kiwifruit can be maintained if consumers have available to them a high quality tasteful product. Consumer preferences can easily be destroyed, however, by one bad experience especially if it is the consumer's first taste of the product.

The California Kiwifruit Commission was established in 1980 to conduct cultural research and promote the consumption of Kiwifruit in domestic and export markets. A federal marketing order was established in 1984. The establishment of a marketing strategy to have minimum grade, size, and maturity requirements resulted from the growth in worldwide competition and the growing reputation of California being a supplier of lower quality kiwifruit. Growers feared they were taking one step forward and two backwards by trying to convince consumers to purchase kiwifruit for the first time, and then by giving them a poor quality and immature product. The kiwifruit market is heavily dominated by first-time purchasers.

Imports of kiwifruit into the United States have increased significantly in recent years. For example, in 1980 imports amounted to about three million pounds. In 1987, nearly 40 million pounds were imported. Comparative figures for California production, already noted, were ten million pounds in 1980 and 60 million pounds in 1987.

Growers of fresh pears, plums, and peaches in California have operated with a marketing order since the 1940's. A separate marketing order for nectarines was established in 1958. Under the provisions of the two marketing orders all four fruits shipped in commercial channels must meet minimum quality standards.

Imports of peaches, pears, nectarines, and plums have increased substantially over the last five year period. Peach and nectarine imports have increased during the last five year period from 16,845 to 42,586 metric tons. Pear imports have increased over the last five years from 12,421 to 32,981 metric tons. Plum imports have increased over the past five years from 5,975 to 16,863 metric tons.

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It is clear that the volumes of imports of fresh peaches, pears, nectarines and plums have increased substantially in the past five year period. The upward trend is expected to continue. Also, it should be noted that increased levels of imported fruit means an overlap in the marketing seasons of imported fruit and that which is produced in California. This helps explain the heightened interest by California growers in amending the Act so that their past achievements in marketing a quality product can be successfully continued.

Mr. Chairman, we want to point out that the proposed amendment would not impose a trade barrier to the importation of fruit produced in foreign countries. The marketing of a high quality product helps foreign producers who sell their products in the United States as well as our own domestic producers. Let me provide one example to illustrate my point. In 1971, Congress amended the Act and added olives and prunes to Section 8(e). Since the period 1968-70, olive production in the United States increased 88 percent while the volume of imported olives increased 324 percent. The production of prunes in the United States shows a slight decline for the same period while imports have increased in volume by 23 percent. Therefore, from this market performance, it is hard to conclude that Section 8(e) amendments to the Act impose trade barriers to imported fruit.

We would also like to address the question of whether the proposed legislation poses any potential effect on crops in other production areas of the U.S. There is no potential effect unless the crops grown in other production areas are shipped to consumer markets under the provisions of a marketing order. In that regard, there are no marketing orders for kiwifruit, nectarine and plums other than those in California.

For peaches, there are three marketing orders other than the one in California. They are for peaches grown in Georgia, in Mesa County, Colorado, and peaches grown in Washington. For pears there are two other marketing orders other than for California production. They are for six varieties of pears grown in Oregon, Washington and California and for Fresh Bartlett pears grown in Washington and Oregon.

If the legislation that is now being requested by California growers is enacted into law, they would then request the Secretary of Agriculture to issue a regulation requiring that imported fresh kiwifruit, peaches, pears,

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nectarines, and plums meet the same minimum quality standards as fruit produced in California and shipped to domestic markets. In order for the minimum quality regulations in effect for peaches and pears shipped under the marketing orders in areas other than California to affect imported fruit, growers in those areas would need to request the Secretary of Agriculture to include their minimum quality standards and their marketing period to the import regulations. It is unlikely that growers of fresh peaches and pears with marketing orders outside California would make such a request.

It is unlikely, then, that the requested legislation would have any effect on any crop except those produced in California.

Mr. Chairman, let me summarize. Producers of kiwifruit, peaches, pears, nectarines and plums in California believe strongly that a strategy of marketing a high quality product in the United States is key to their continued success in developing and maintaining an economically viable industry. We feel that strategy should apply to fruit produced by foreign producers as well as to our own domestically produced fruit. California producers have adopted procedures through federal marketing orders to accomplish quality control. We are requesting legislation that would amend the Act to subject kiwifruit, peaches, pears, nectarines, and plums produced in foreign countries and marketed in the United States to the same minimum quality standards of fruit produced and marketed domestically. To the extent that the market for fruit produced in California is enhanced by the marketing of a quality product, all producers will benefit regardless of their location.

Mr. Chairman, again we thank you for the opportunity to appear before your subcommittee. We will be glad to answer any questions that you or your subcommittee members may have.

BEFORE THE SUBCOMMITTEE ON
DOMESTIC AND FOREIGN MARKETING AND PRODUCT
PROMOTION OF THE U.S. SENATE COMMITTEE ON AGRICULTURE

HEARINGS ON S. 1194, LEGISLATION TO ESTABLISH
COORDINATED RESEARCH, PROMOTION AND
CONSUMER INFORMATION PROGRAM FOR FLORIDA LIMES

STATEMENT BY PAL BROOKS

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Submitted: July 14, 1989

BEFORE THE SUBCOMMITTEE ON
DOMESTIC AND FOREIGN MARKETING AND PRODUCT
PROMOTION OF THE U.S. SENATE COMMITTEE ON AGRICULTURE

HEARINGS ON LEGISLATION TO ESTABLISH A COORDINATED
RESEARCH, PROMOTION AND CONSUMER INFORMATION
PROGRAM FOR FLORIDA LIMES

STATEMENT BY PAL BROOKS

Mr. Chairman, my name is Pal Brooks. I am a grower and handler of Florida limes. My family has been engaged in producing and marketing limes in Florida since 1939. Over the years, we have been supportive of a wide range of research and market development efforts designed to improve the economic well-being of lime growers.

Today, I am appearing before your subcommittee on behalf of lime growers in Florida to ask your support of legislation that would assist our industry to continue our efforts to improve the markets for limes.

Practically all limes produced in the United States are grown in Florida. They represent an important part of the agricultural economy of the state. In recent years, production has been around one and a half million boxes with a value to growers of over 25 million dollars.

Lime growers in Florida have a strong history of coordinated industry efforts to improve our economic position in the marketplace. In the early 1960's we adopted a Federal marketing order for the establishment of production and marketing research and development projects designed to assist, improve and promote the marketing, distribution and consumption of limes. A second major feature of the marketing order is that we elected to establish minimum quality standards for fresh limes sold in commercial channels.

Marketing orders, authorized by the Agricultural Marketing Agreement Act of 1937 give producers of fruit, vegetable and specialty crops an opportunity to enter into an agreement with the Secretary of Agriculture to establish programs to stabilize and improve the markets for these crops. In the lime marketing order, we collect assessments on each box of limes marketed to carry out our promotion, education and quality maintenance programs.

The complementary aspects of the two features of our marketing order results from the fact that it does not make good business sense to spend money to advertise and promote a product of poor quality. Since consumers generally do not consider limes a basic food, it becomes important for lime producers to engage in consumer education efforts and to market a product of exceptional quality.

The Florida lime industry is a cohesive group. We continue to strongly endorse our coordinated and voluntary efforts to help ourselves without asking for subsidies or support from the Federal treasury. But the programs and subsequent benefits afforded us by the current marketing order have been severely eroded by changing market conditions.

Since the 1960's when the marketing order was adopted, market conditions have changed drastically with respect to the quantity of limes imported into the United States. More specifically, in 1972, for example, only 1,800 metric tons of limes were imported compared to over 30,000 metric tons last year. Once, the domestic market for fresh limes was supplied almost entirely by limes grown in Florida. Now, Florida producers share the domestic market with substantial quantities of imported limes.

The substantial importation of limes into the United States poses a special problem for Florida producers. The problem is that the Marketing Agreement Act does not authorize Florida producers to access imported limes in their marketing order. Thus, while we continue to support our own voluntary program of assessments to advertise and promote quality -- quality standards which apply equally to imported limes, we believe it only fair and just that foreign producers of limes who export to this country pay their fair share of the cost of the market expansion programs which benefit all lime producers.

I noted earlier that a main feature of our Federal marketing order was a provision to ship only limes that meet a minimum quality standard. The importation of limes does not create a problem in this regard. Section 608e of the Act specifies that if a domestic industry imposes minimum quality standards on its own domestically produced product, then those same minimum quality standards apply to the imported product.

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The legislation which we are asking you to support would correct the inequity that now exists. It would provide for an equitable program where imported limes would be assessed at the exact same rate as limes grown in Florida and sold in commercial markets. It is a reasonable request because to the extent the market for Florida limes is enhanced by the promotion and advertising program, that same enhancement would be afforded the imported product. The legislation would, in no way, be an attempt to keep imported limes out of the country. It is not intended to be, nor would its effect be, a trade barrier.

Let me summarize. Florida lime growers now have a successful voluntary market expansion program where we collect assessments on each box of limes sold for the purpose of promotion and advertising. The authority for the program comes from the Agricultural Marketing Agreement Act of 1937 which does not authorize assessments on imported commodities. But, about half of the fresh limes sold in the United States are imported. We feel it only fair that foreign producers of limes who export to this country should pay their fair share of the costs of market expansion programs. We are asking your support for legislation that would establish a program whereby imported limes would be assessed at the same rate as Florida grown limes to fund the advertising and promotion programs.

Mr. Chairman, I appreciate an opportunity to appear before your subcommittee and will be glad to answer any questions that you or the subcommittee members may have.



Via Federal Express

July 13, 1989

The Honorable David L. Boren
Chairman, Subcommittee on Domestic
and Foreign Marketing and Product Promotion
Agriculture, Nutrition and Forestry Committee
United States Senate
Washington, D.C. 20510

Re: S. 918

Dear Senator Boren:

Please accept the following comments in opposition to the Fresh Mushroom Promotion, Research and Consumer Education Act, recently introduced in the Senate as S. 918. We apologize that we will not be available to present these comments in person at the subcommittee hearing on this bill scheduled for Friday, July 14, due to a previously scheduled meeting of our board of directors.

United Foods, Inc. has been in the vegetable industry for almost 50 years. We entered the fresh mushroom business in late 1987, by acquiring three mushroom farms located in Ventura, California, Salem, Oregon and Fillmore, Utah from the bankruptcy estate of Mushroom King, Inc. These three farms employ almost 800 people. Thus far we have been successful in correcting the problems which led to the Mushroom King bankruptcy and saving the jobs of substantially all of Mushroom King's former employees.

Our other vegetable processing facilities are located in Bells, Tennessee; Ogden, Utah; Fairmont, Minnesota; Salinas, California and Modesto, California.

United Foods opposes enactment of S. 918 for a variety of reasons, including the lack of any need for the legislation, the excessive amount of money that can be extracted from mushroom growers pursuant to the legislation, the unfairness of the voting and assessment procedures, and the lack of any realistic means for terminating the program once it is more widely accepted that it will not fulfill its proponents' promises.

1. There is no need for the proposed program. The mushroom industry has been growing steadily during the past few years. Consumption of fresh mushrooms has been rising faster than consumption of any other vegetable that United Foods sells in the United States. Technological improvements have taken place over the past few years which have made mushroom farms substantially more efficient and more productive than they were ten years ago. Both trends will continue to take place completely independent of and unaided by any federal programs. The proposed legislation would detract from this natural process by interfering with market mechanisms and siphoning away substantial quantities of money that are needed for further capital improvements.

The Honorable David L. Boren
 July 13, 1989
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2. The amount of money requested is excessive. The bill would authorize creation of a mushroom council which could assess members of the industry up to 2 cents per pound. For United Foods, this assessment could exceed \$750,000 per year. Across the industry, this amount probably represents an average of around 30% of the typical mushroom grower's net profit.
3. The proponents admit that the original program was flawed. The mushroom industry proponents of S. 918 originally proposed that the funds collected by the mushroom council should be spent on consumer education and promotion. These same proponents persuaded smaller growers in the mushroom industry to support this legislation on the basis that spending 2 cents per pound on consumer education would gain them 5 cents per pound¹ in additional revenue due to higher prices generated by the increased demand for the product. These same proponents now correctly admit that a consumer education program will not work. Our experience in several facets of the vegetable industry suggests that the amount of money that would be required to mount an effective nationwide advertising campaign would require an assessment four or five times larger than the 2 cents a pound that is requested.
4. The proponents have not proposed a credible program. When asked how they will spend the millions of dollars that they seek to raise from mushroom growers, the industry proponents of S. 918 have said only that
 - a. they will spend money to hire a manager who will collect the assessments from the mushroom industry participants and audit those participants to make sure that they have paid the amount that they owe; and
 - b. they then will sponsor research programs designed to determine how the mushroom council can best spend the money that it has collected for the benefit of those who have paid.

This is not an adequate justification for obtaining money. With this approach the sponsors have sought to avoid any review of the program that they might be proposing for expenditure of the funds, any determination of standards by which their success or failure might later be judged, and any accountability for that success or failure.

5. The industry can better spend the funds on capital improvements. The millions of dollars that are being requested can better be spent by the members of the industry on capital improvements to their farms. There is not one mushroom grower in this country who cannot point to opportunities for capital expenditures at its own farms which would increase its productivity and product quality. The three farms owned by United Foods, which suffered deterioration in the years leading to their bankruptcy, certainly require further investment. In our case, passage of S. 918 and implementation of the suggested assessment necessarily will reduce the amount of money actually spent on capital improvements at these three farms.

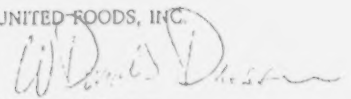
The Honorable David L. Boren
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6. Voting rights and assessment rates should be linked. Under the current proposal, more than 50% of the funds to be assessed will be paid by the five largest mushroom growers in the United States: Campbell Soup Company, Monterrey Mushroom Company, Moonlight Mushrooms, Inc., United Foods, Inc. and Lyon Food Companies, Inc. By contrast, these companies will have only about 5% of the voting power -- a ten to one discrepancy. This unfairness to the larger participants is compounded by the geographic concentration of the smaller producers in two areas: Pennsylvania and Northern California. It is reasonable to expect that the geographic and voting imbalance will cause assessments to be levied that are larger than reasonable and that proportionally more funds will be spent for the benefit of the growers in the two regions of concentration than for growers like United Foods which are located in other regions.
7. The program will be hard to terminate. As drafted, S. 918 does not contain a sunset clause which would provide for termination of the program once it is found that it will not fulfill its goals. The only related language that is in the bill requires 30% of all mushroom growers to initiate a referendum (Section 6(b)), which means that a referendum can be blocked by growers representing a relatively small minority of total mushroom production.

Thank you for the opportunity to present our views.

Sincerely,

UNITED FOODS, INC.


W. Donald Dresser
Executive Vice President

WDD:eds

TESTIMONY OF W. DONALD DRESSER
EXECUTIVE VICE PRESIDENT, UNITED FOODS, INC.
BEFORE THE HOUSE AGRICULTURE DOMESTIC MARKETING,
CONSUMER RELATIONS & NUTRITION SUBCOMMITTEE

JULY 25, 1989

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify in opposition to H.R. 2187, the Fresh Mushroom Promotion, Research and Consumer Information Act.

United Foods has been in the vegetable business for almost 50 years. Today we have facilities for processing and distributing vegetables in Minnesota, Utah, Tennessee, Oregon and California. We have substantial experience in marketing and distributing vegetables. Our principal brand - Pictsweet - is sold nationwide.

United Foods entered the mushroom business by acquiring three mushroom farms in late 1987 from the trustee in bankruptcy for Mushroom King, Inc, an unrelated company. These three farms are located in Ventura, California; Salem, Oregon and Fillmore, Utah. They employ almost 800 people. The three farms produce almost 40 million pounds of mushrooms each year. This amounts to around 8% or 9% of all of the fresh mushrooms sold in the United States. United Foods is repairing the problems which led to Mushroom King's bankruptcy. We believe that we can make the three farms successful and that the jobs at the three farms will be saved.

In a moment, I am going to talk about how H.R. 2187 would, if enacted, damage the process that we are going through to repair our mushroom farms. First, however, let me focus on what we believe is the worst feature of H.R. 2187. That is the extraordinary amount of money that the

legislation, if enacted, would allow a mushroom association to collect from mushroom growers. When I come back in a moment to talk about our three farms, I would like to make the point that the money that would be assessed from United Foods under this legislation can better be spent finishing the job that we have begun of saving our three farms.

H.R. 2187 would authorize a mushroom council to assess 2 cents against every pound of mushrooms that United Foods and other growers produce. In the case of United Foods, 2 cents a pound would cost us between \$750,000 and \$800,000 per year. This is a very large amount of money. I believe that it is higher in percentage terms than the amount assessed under any other similar program. This assessment of 2 cents a pound represents 30% to 50% of the net profits of all of the mushroom growers in the United States taken in the aggregate. In other words, the amount of the assessment is on the same order of magnitude for mushroom growers as the federal income tax.

The amount of the assessment is particularly troublesome in view of the lack of any concrete proposal by the proponents as to how the money would be spent. All of the detail as to how and why to spend the money is left for later after it is collected. There have, of course, been various proposals put forward as to different ways the money could be spent. Because we are acutely aware of the magnitude of our contribution, we have paid close attention to those proposals to see if there were any that we could support. Unfortunately, there were no proposals made that would confer any significant benefit on United Foods. In the event that H.R. 2187 is enacted, therefore, we face not only the burden of paying a significant tax but the embarrassment of paying a tax for which we receive no services or benefits in return.

The amount of the assessment is also unfair in view of the peculiar voting arrangements that the legislation would establish. In the initial referendum, and any subsequent referendum, and apparently in connection with votes to determine how funds should be spent, all mushroom growers will have an equal vote. The five largest growers, however, produce more than 50% of the mushrooms grown in the United States but would have less than 5% of the vote -- more than a 10 to 1 discrepancy. Thus even if the producers of the great majority of mushrooms were to determine that the research and promotion order was not accomplishing its purposes and sought to amend or rescind it, they might be unable to do so because voting control would remain with producers representing a minority of the production.

H.R. 2187, if enacted, will interfere with United Foods' ability to complete the job that we have begun of repairing and saving our three farms. The \$750,000 to \$800,000 assessment necessarily will come out of funds that otherwise would be available for productive use at the farms. But that is not the whole problem; some of the activities in which the mushroom council states that it would engage will be counter to our interests. I would like to focus on five specific areas where H.R. 2187 will interfere with our ability to repair our farms and improve our mushroom business. These areas are capital expenditures; research and development; marketing; exports; and relations with our employees.

1. Capital Expenditures. The easiest problem area to understand involves our need to make significant capital expenditures to stay in business. During the five years before United Foods acquired the farms in late 1987, prior owners of the farms had spent very little

money on maintaining or improving the farms. Consequently, we need to invest substantial amounts of capital so as to restore the farms' productivity, improve the quality of their product, and make the farms a better and safer workplace for our employees.

H.R. 2187, if enacted, would be detrimental to our capital reinvestment program simply because it would subtract from the money available for these needed capital repairs. United Foods ceased paying dividends in 1987, partly because we desired to increase the amount of money available for rebuilding plant and facilities. We do not have any other pool of uncommitted funds on which to draw to pay for such projects. A 2 cents per pound assessment therefore necessarily will be funded at the expense of some capital projects that we otherwise would pursue.

2. Research and Development. United Foods currently is engaged in a number of research and development projects of a proprietary nature relating to our mushroom business. The improvements that we hope will result from these efforts will be important to the success of our mushroom farms.

The proponents of H.R. 2187 claim that some of the funds to be assessed against industry members pursuant to that legislation will be used by the mushroom council for research and development activities. We are not aware of any research activities to be undertaken by the mushroom council that would have any particular usefulness for the United Foods' farms.

If United Foods is required to pay a 2 cent a pound assessment, the funds will have to come from somewhere. Continuing or expanding our proprietary research projects is, like our capital expenditure program, one of the few areas when we are free to make cutbacks to pay for the assessment.

3. Marketing and Promotion. United Foods markets the mushrooms that it produces under the Pictsweet label. We commenced using the Pictsweet label earlier this year after we felt that our farms were providing the quality and service that we like to have associated with our Pictsweet name. Consumer response to this branded program has been good.

Some of the proponents of H.R. 2187 state that they would spend some of the funds that the mushroom council collects on generic advertising and promotion of mushrooms, both at the trade and consumer level. In our judgment, this would be disadvantageous for United Foods. It would undercut the efforts that we have made to create and promote a branded image that the trade and consumers associate with our standards of quality and service and price. Generic advertising instead suggests to the trade and to consumers that all mushrooms and all mushroom farms are equal and alike, which of course they are not.

There are two other problems with the generic advertising program. The first is that there is not enough money to make it work. Based on the experience that United Foods has had in earlier years with generic advertising of frozen vegetables and the experience that we understand other industries have had under various research and promotion orders, we have concluded that the amount of money that the mushroom council might put into

a generic advertising program is much too small to be effective. At least some of the proponents of H.R. 2187 have agreed with me that there will not be sufficient funds available to conduct a nationwide program.

This leads to the second problem with a generic advertising program. As the legislation has been drawn, voting control of the mushroom council will be concentrated in the two regions where a large majority of the U. S. mushroom growers are located: Pennsylvania and Northern California. It is reasonable to expect that the geographic concentration of growers in those two areas will cause proportionately more funds to be spent for the benefit of growers in those two regions than for growers like United Foods which are located in other regions. The split in the industry between those growers in favor and those growers opposed to this legislation follows the same regional lines. The most vocal proponents are from farms in Pennsylvania and Northern California. The most vocal opponents of the legislation have been the nation's first and fourth largest mushroom growers, Campbell Soup and United Foods, which have nearly all of their farms outside of Pennsylvania and Northern California.

4. Exports. Another element of United Foods' success with the three mushroom farms it acquired is promoting the export of mushrooms to other countries such as Japan and Canada. H.R. 2187, if enacted, might deter export sales. Such sales typically have higher transportation costs and thus lower margins. In some instances, the 2 cents a pound assessment would exceed the margin available from such sales and thus could make those export sales uneconomic.

There is some language in the proposed bill which could be interpreted to exempt export sales from the assessment. If that is the correct interpretation, which I doubt, then a question arises whether that exemption is consistent with GATT and the recently concluded trade agreement with Canada.

5. Employee Relations. Finally, perhaps the most important ingredient in United Foods' success has been the innovative profit sharing program that we created at each of the three farms. H.R. 2187 would damage this program by taking money out of every employee's pocket and undercutting the benefits that the profit sharing program has produced.

The profit sharing program that we created works as follows. Each of the three mushroom farms is a separate profit center, and is responsible for its own purchasing, sales, accounting and so forth. On a quarterly basis, at each farm, we pay out a profit sharing bonus equal to 20% of the pre-tax net profits earned by that farm during that period. That share of profits is divided among all employees who worked at the farm during the quarter, in proportion to their gross wages. This program had the initial affect of overcoming morale problems associated with the bankruptcy, and encouraging key employees to stay. It has, subsequently, taught all employees to be sensitive to costs, to quality and to service for our customers.

Because of this profit sharing program, the 2 cent per pound assessment would not just be a tax on United Foods. It would be a direct tax on the earnings of the employees. 20% of that 2 cents per pound, or 0.4 cents per pound, will come directly out of the employees' quarterly profit sharing payments. The practical affect will be to reduce the bonus by various amounts, ranging from 25% to 100%, at our three farms. This will damage the goodwill that we have earned from our employees and undercut the resulting improvements in quality and productivity that we have enjoyed.

Finally, the mushroom industry is not one that is in trouble or needs special help. Mushroom consumption in this country has been growing steadily for a number of years, faster than the growth rate of any other vegetable that United Foods sells. Technological improvements have taken place over the past few years which have made mushroom farms substantially more efficient and more productive than they were 10 years ago. Both of these trends will continue to take place without any federal assistance or federally sponsored programs. H.R. 2187 would damage rather than encourage those two beneficial trends.



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Cameron, SC 29030
Tel: (803) 823-2311

July 7, 1989

Senator J. Strom Thurmond
218 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Thurmond:

We appreciate your continued support of agriculture and agricultural related businesses at every level of government. Because of this support, South Carolina's agricultural industry now exceeds one billion dollars and continues to grow each year.

A recent bill introduced by Georgia Senator Wyche Fowler and co-sponsored by you concerning pecan promotion and research will have a major impact on your constituents in South Carolina. This bill is a revival of the pecan marketing order that was defeated with your help in 1983. This new bill can enhance the pecan product with proper management, but all involved must realize legislating money will not solve this problem. The shelling industry and others spend millions of dollars on brand name advertising each year, but because of large production levels, prices have remained low for inshell pecans and shelled meats.

Because of these low prices, the atmosphere for a new bill is right as long as the format is not based on emotionalism. A number of farmers, including pecan growers, have suffered considerably since the drought of 1977. These conditions have created food boycotts, tractor boycotts in Washington, and unnecessary Federally Funded Farm Subsidy Bailouts that have contributed to the high deficits, creating a negative reaction to agriculture and its producers.

The problem that the pecan industry has is not volume sales and competitive prices, because we are selling more pecans today than any

time in history at prices competitive with other tree nuts. Our problem was fueled by greed and high margins. Exceptionally high profits for growers in the 1970's enticed farmers to plant more trees and install orchard irrigation systems. Wealthy Mexican investors planted large acreages of pecan trees in Mexico because of this high profit margin, and are shipping tons across the border.

We feel that before this bill is passed, consideration for all growers both backyard and large orchards, should be reviewed. The term backyard means growers who planted trees in the early 1900's for landscaping purposes. They used the money from selling these nuts to pay taxes, or to send their children to college. The term large orchards consist of corporate farms and large acreages that are under a planned production schedule.

The two areas of this bill that we take exception to are first, volume of sale to be assessed, and secondly, first handler collection procedures.

(1) In reference to assessment, most growers concerned about this problem are the large commercialized growers, not your backyard grower. Most of South Carolina's trees are backyard and will not benefit from this assessment, because they are not graded on the same scale as a commercial grower. These nuts may have a 20% rejection rate. Backyard growers should not be penalized for a crop that is dependent on nature for crop size and disease control. We suggest that any growers with sales of 1000 pounds or less per sale, should be eliminated from this assessment.

(2) In reference to the first handler, this is predominately a grower organization and should be controlled by the Pecan Marketing Board, not shellers and accumulators. We suggest a three copy form be drafted that could be administered by a first handler that purchases 1000 pounds or more. The original be sent weekly to the Pecan Marketing Board, and one copy each be given to seller and first handler. Collection would be done by the Pecan Marketing Board to eliminate multiple handling of collected monies. This would eliminate growers becoming angry at shellers and other handlers for charging this assessment. It would also allow business privacy in a family owned industry that has existed for many years.

Should the above two points fail, we feel that everyone should have the right to vote on this bill. "One man, One vote." Example, you own 5,000 trees, you get one vote, or you own 25 trees, you get one vote. "One man, One vote" would defeat this bill, if one of the first two items is not implemented. This is not only our conclusion, but shellers and first handlers industry wide agree.

Senator, it is vital that we support our pecan industry, but we also feel it extremely important that all segments of the industry be protected from emotionalism and greed.

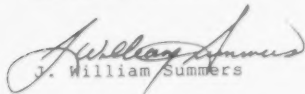
We always enjoy seeing you in South Carolina and appreciate your concern for our industry.

Sincerely,

GOLDEN KERNEL PECAN CO., INC.



David K. Summers, Jr.


J. William Summers

DKSjr.,JWS/ngs



AGRICULTURAL COUNCIL OF ARKANSAS
BOX 1837
WEST MEMPHIS, ARKANSAS 72301

PHONE 735-5054

July 11, 1989

Hon. David Boren, Chairman
Subcommittee on Domestic and Foreign
Marketing and Product Promotion
SR 453
Washington, D.C. 20510

Dear Senator Boren:

You and your Subcommittee members are urged to report for Senate consideration the Cotton Research and Promotion Act Amendments of 1989. Cotton Incorporated has proven over the years that its efforts are effective. CI simply needs extra funds to more adequately do its job on behalf of America's cotton farmers and, subsequently, the entire cotton industry.

Agricultural Council of Arkansas members strongly support legislation which would eliminate the refund provision in the present law. Council members are dismayed about the high degree of refunds in our state and in the entire country. We have supported the cotton research and promotion checkoff program since its inception back in the sixties.

Investigation into the refund problem reveals several answers. Poor crops and hard times in agriculture in the eighties caused some farmers to ask for refunds. The fact that some farmers learned that they could get their money back and not have to report the refund on their income tax is an incentive to some to ask for refunds. However, more than anything else, most farmers want everyone to help pay the bill. Therefore, we have come to the conclusion that a mandatory checkoff is the best way to solve this problem.

Much of the cotton textile products consumed in this country is imported in the form of finished garments and household goods. We have also learned that a great deal of these products are not made from United States grown cotton. We as cotton producers believe that since imported cotton products enjoy the benefits of our research and promotion efforts, such products should help foot the bill. Therefore, we very strongly favor including language in new legislation which would allow for the checkoff of promotion funds on the cotton content of imported textile products.

We implore you and your Subcommittee members to help us help ourselves by reporting the Cotton Research and Promotion Act Amendments of 1989 and subsequently push it to passage through the full Senate.

Sincerely,

Steve Wilson

Steve A. Wilson
President

Nichols Farms
1237 Ridgcrest Road
Altus, Oklahoma 73521

July 11, 1989

Senator David Boren
423 Russell Senate Office Building
Washington D.C. 20510

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay their fair share into this program. We would like to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

Mark Nichols

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

July 14, 1989

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay there fair share into this program. We would like to to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

Wayne Q. Winsett
2028 Willard Drive
Altus, Okla. 73521



**HUMPHREYS
FARMERS UNION COOP**

Route 1, Box 50
ALTUS, OKLAHOMA 73521

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

July 10, 1989

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay there fair share into this program. We would like to to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

John H. Gaskill
L. H. H. H. H.
Ed. H. H. H.
Ed. H. H. H.
Ed. H. H. H.
Ed. H. H. H.
Ed. H. H. H.
Ed. H. H. H.



DAVIDSON
COOPERATIVE ASSOCIATION
P. O. BOX 186
DAVIDSON, OKLAHOMA 73530

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

July 10, 1989

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay there fair share into this program. We would like to to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

Davidson, Cooperative Ass'n.

Davidson, Okla.

Randy Smith
Manager



E. RITTER AND COMPANY

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~~MARKED OFF BY ARNOLD 1989~~

July 13, 1989

Senator David Boren, Chairman
Subcommittee on Domestic and Foreign Marketing
and Product Promotion
Russell Senate Office Building
Washington, DC 20510

Dear Senator Boren:

My name is Mary Ann Ritter Arnold, and I am a cotton producer, ginner and warehouseman. I have in the past, testified for the Research and Promotion Program of Cotton Incorporated that is funded by check off funds. I strongly support enactment of legislation amending the current Cotton Research and Promotion Act. We need to apply an assessment on the cotton content of imported textile products, eliminate the current refund provision and establish a uniform assessment on all domestically produced cotton.

The foreign producers and manufacturers benefit from but never contribute to the Research and Promotion Program and if this were corrected I believe the U.S. cotton producers would have a different attitude about requesting a refund of their check off assessment.

Please make this apart of the hearing record of the Subcommittee on Domestic and Foreign Marketing and Product Promotion to be held on July 14.

Sincerely,

E. RITTER AND COMPANY

Mary Ann Ritter Arnold
President

MARA/jf

STATEMENT OF

TROY H. FORE, JR.
Secretary-Treasurer
AMERICAN BEEKEEPING FEDERATION, INC.
P.O. Box 1038 - - Jesup, GA 31545

TO THE
UNITED STATES SENATE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY
SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING
AND PRODUCT PROMOTION

JULY 14, 1989

RE: AMENDMENTS TO THE HONEY RESEARCH, PROMOTION,
AND CONSUMER INFORMATION ACT

On behalf of the American Beekeeping Federation, I want to thank you for this opportunity to present a statement in support of the proposed amendments to the Honey Research, Promotion, and Consumer Information Act.

Our association -- which was the primary supporter of the passage of the original Act and the formation of the National Honey Board -- includes about 2,000 members located in every state of the Union and involved in every aspect of beekeeping. Our membership encompasses honey producers, pollinators, honey packers, producers of queens and package bees -- anyone interested in beekeeping. We have every size beekeeping operation represented -- from the one-colony hobbyists to the multi-thousand-colony migratory beekeepers.

We regard the National Honey Board as an unqualified success. The progress made by this self-supported promotion program is nothing short of remarkable. Through the efforts of the Honey Board, our industry has seen increases in the use of both industrial honey and retail honey.

For example, the number of new manufactured products utilizing honey as an ingredient reached 157 in 1988, up from 100 in 1987.

At the retail level, honey sales had been declining since 1983 until last year, when the decline leveled off and sales rose to post a gain of 3 percent for the year. In 1989 retail sales are reported to be up dramatically.

However, even a program working so well could use some fine tuning. Some situations were not foreseen in the original Act, practice has shown that some procedures could be made to work better, and at least one provision of the original Act has been interpreted differently by USDA than the drafters of the Act had intended.

The proposed amendments are basically minor in nature and have the support of the industry at large. In our opinion they are not substantial enough to warrant holding an approval referendum of the honey producers and importers.

The most significant amendment would clarify a provision of the Act relating to assessment refunds to importers, returning it to the original intent of the drafters. The Department of Agriculture has chosen to interpret the provision in a way that threatens to escalate the refund rate, not only to importers, but as a consequence, to domestic producers as well.

The original intent was that an individual importer could receive as a refund only the percentage of his assessment equal to the percentage domestic producers as a whole received for the year. For example, if the domestic refund

rate were 15 percent for a given period, an importer could receive a refund of 15 percent of his assessments. However, USDA has ruled that the Act mandates that the domestic refund rate must be applied the total of the importer refunds, and the resultant amount must be set aside as an available importer refund "pool." That pool is to be allocated to the importers who request refunds.

The result is that a few importers are able to receive all their assessments back as refunds. In the severely competitive import market, this gives those importers a distinct advantage over their competitors who do not request refunds. Some of those competitors who are otherwise staunch supporters of the Honey Board have informed the industry that they also will be forced to request refunds on their assessments. Unless this situation is corrected, the importer refund rate will escalate from the 1988 level of 6.6 percent to the same rate as domestic refunds -- now approximately 20 percent. When domestic producers see importers taking more refunds, they are likely to ask for more refunds, creating a refund spiral that could impair the effectiveness of the Honey Board.

The question could be asked, "Why are importers treated differently from domestic producers with respect to refunds?" There are several answers.

First, only a few firms handle the majority of the imports. With so much at stake, if an importer could simply request and receive his entire assessment in refund, there would be a great deal of pressure to do so. A typical domestic producer, on the other hand, would not have so much to gain by filing for a refund.

Secondly, as mentioned above, the import honey market is highly competitive and market pressures would demand that an importer request a refund, if the refund were more lucrative.

Thirdly, with domestic producers, the refunds flow back to the producer. It seems unlikely that the importer would return the refunds to the foreign producer in like manner.

The other changes would--

--Allow appointment of an exporter to one of the two importer seats, for which there are limited candidates.

--Provide for continuity of the producer members of the board in the event redistricting of producer districts places those members outside their original districts.

--Make smaller producers and importers subject to assessment if they utilize the normal channels of commerce and require those who do claim exemption to be able to show proof they qualify for the exemption.

--Give the Board ownership of patents, copyrights, publications, etc. developed with Board funds.

--Allow producers claiming refunds to file their claims when they have proof assessment was paid by a deduction from their price support loans. Now they must wait until the loans are settled, creating a paperwork problem for the Board.

--Provide that the producer is ultimately responsible for paying his assessment should it not be collected by the first handler (as he sells the honey) or by USDA (as he obtains a price support loan).

There is one further problem with the National Honey Board program, which is not being addressed in these amendments. The original Act provides for refunds to those importers and producers who do not wish to participate in the program. A few large producers have taken advantage of this provision and have caused the refund rate to double during 1988. If this situation continues to worsen, as it is predicted to do, the National Honey Board's effectiveness will be severely hampered.

According to Board statistics, only 2 percent of the domestic producers have applied for refunds, but these few producers have been refunded nearly 20 percent of the domestic assessments.

Before the time for the regular 5-year reapproval referendum in 1991, the American Beekeeping Federation intends to ask this subcommittee to enact legislation that would end the refunds after approval by the producers and importers.

At this time, however, we are asking only that those "housekeeping" amendments be approved. Thank you for your consideration of them.

J-M

Route 2, Box 15 • Miami, Oklahoma 74354 • (918) 540-1567

Farms, Inc.

July 12, 1989

The Honorable David L. Boren
428 Russell Senate Office Building
Washington, DC 20510

Dear Senator Boren:

On behalf of J-M Farms of Miami, Oklahoma, and its 240 employees, I would like to express our gratitude for your sponsorship of S. 918, the Fresh Mushroom Promotion, Research and Consumer Education Act.

J-M Farms, in operation since 1979, has an annual payroll of over \$4 million, providing a strong economic base for northeast Oklahoma. Our annual sales in a six state area average approximately \$11.5 million. The wheat straw that we purchase annually from Oklahoma farmers exceeds \$350,000.

We wholeheartedly believe that the promotion and research program that could result from enactment of S. 918 would be of enormous benefit to mushroom growers across the country, while at the same time, enhance the efforts we are undertaking on our own here at J-M Farms. There are certain common challenges facing this industry that would best be addressed from a cooperative standpoint. A national promotion and research program would clearly be the best vehicle to achieve our common goals. From your experience in dealing with agricultural issues in Congress, you recognize the successful benefits of the promotion and research programs currently in operation.

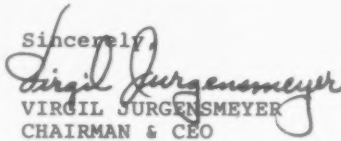
All of us involved in agriculture, legislators and producers, must constantly look for innovative and forward looking approaches to situations we face. And here in Miami, we believe our farm is an excellent example of the successful economic benefits of

agricultural diversification. The creation of a national promotion, research and consumer education order will be a valuable tool in our efforts to grow and prosper.

Senator, we in Oklahoma admire and appreciate your dedication to agriculture and rural America. We are now asking that you use your influence and leadership position to strongly push for enactment of S. 918. We are not coming to the federal government for any financial assistance. We are strong believers in the free enterprise system and only want the authority to participate in a self-help effort by creating a successful promotion, research and consumer education program.

Again, we thank you for your support and ask that this letter be included in the record of the July 14 hearing.

Sincerely,


VIRGIL JURGENSMEYER
CHAIRMAN & CEO

VJ/tsb

Needville Cotton Warehouse, Inc.

PHONE 793-4228



BOX 33

NEEDVILLE, TEXAS 77461

THE HONORABLE DAVID BOREN
 UNITED STATES SENATE
 CHAIRMAN SUB COMMITTEE ON AGRICULTURE (FOREIGN MARKETING AND PRODUCT PROMOTION)
 SUITE SR 453 RUSSELL SENATE OFFICE BUILDING
 WASHINGTON DC. 20510

DEAR SENATOR,

WE URGE YOU TO HELP PASS THE ADMENDMENT ON THE COTTON RESEARCH AND
 PROMOTION ACT, AND REQUEST THAT IT BE INCLUDED IN THE RECORD OF HEARING.

IT IS VERY INPORTANT THAT THE ADMENDMENT BE PASSED, SO THAT COTTON
 PRODUCERS IN THE UNITED STATES MAY CONTINUE THEIR EFFORTS,AS AN ENTIRE
 BODY, TO CARRY OUT THEIR WORK IN RESEARCH AND PROMOTION OF THEIR PRODUCTS.

SINCERLY,

OTTO L. LEISSNER
 PRESIDENT MGR.
 NEEDVILLE COTTON WAREHOUSE, INC.

PRESIDENT
 FT. BEND COUNTY GRAIN AND COTTON ASSOCIATION

PAST PRESIDENT AND CHAIRMAN
 SOUTH TEXAS COTTON AND GRAIN ASSOCIATION

DIRECTOR
 TEXAS ASSOCIATION CERTIFIED PRODUCER ORGANZIATIONS



Triangle Farms

BOX 782
SIKESTON, MO. 63801

July 11, 1989

Honorable David Boren
Russell Senate Office Building
Room 453
Washington, D.C.

Dear Senator:

It is vital for the future of the American cotton industry that we are provided with sufficient research and promotion for our commodity. As you well know, such help must, for the most part, be funded through check off monies. For this reason, I, along with most others, strongly support the Cotton Research and Promotion Act Amendments of 1989.

In my opinion, in order for us as a nation to become more economically strong and self sufficient, we must have an efficient and healthy agricultural base. Legislation that would help us acquire such goals not only helps agriculture, but helps America.

Thank you in advance for any help that you might give us concerning this matter. If in any way I might be of service, please feel free to get in touch with me.

Sincerely,


JOHN HUX, JR.

JHJr/tmr

cc: Honorable John Danforth
Honorable Christopher Bond
Mr. Charles Bragg

WHITTINGTON FARMS

ROUTE 3 BOX 445 65
GREENWOOD, MISSISSIPPI 38930-9404

(601) 453-4081

WHITTINGTON PLANTING CO. INC.
WHITTINGTON & DAVENPORT
BUCKHORN PLANTING COMPANY
BUCKHORN GIN COMPANY

AVEN WHITTINGTON
PRESIDENT AND
MANAGING PARTNER

July 8, 1989

Hon. David L. Boren, Chairman,
Subcommittee on Domestic and Foreign Marketing
and Product Promotion,
Senate Agriculture Committee,
453 Russell Senate Office Building,
Washington D C 20510

Dear Senator Boren:

As a supporter of the program since its inception in the 1960's, I am a strong supporter of the proposed amendments to the Cotton Research and Promotion bill being discussed in your Subcommittee.

The bill has the support of all of the major cotton organizations in the country. About 75% of the cotton farmers support the bill on a voluntary basis. Many of those who now get refunds would like to have the program made mandatory, especially if the assessment is made on imports, which have reaped much of the benefits of the promotion paid for by American cotton growers.

I urge you and your subcommittee to give strong support for this legislation. Please make this letter a part of the record of your hearing of July 14.

Very sincerely,

Aven Whittington
Past President
National Cotton Council

850 Stone Street, # 74
Corpus Christi, TX 78418
July 7, 1989

The Honorable David Boren
Chairman-Product Promotion Subcommittee
United States Senate
Washington, D. C. 20515

Dear Senator Boren:

Please support the amendment to the Cotton Research and Promotion Act that will extend the assessment to include imported textiles with a no refund provision.

As an individual with a financial stake in a cotton farm in West Texas, I believe that it is imperative that those who benefit from the research and promotion activities of Cotton Incorporated should bare their fair share of the program's costs. Self help programs such as Cotton Incorporated must be adequately funded to insure the future for cotton producers in the United States.

I am also writing my senators, Lloyd Bentsen and Phil Gramm, urging them to support this amendment.

Please include this letter as a part of the record of the Product Promotion Subcommittee hearing scheduled for July 14, 1989.

Sincerely Yours

Dale W. Thompson
Dale W. Thompson

GILKEY ENTERPRISES
DIVERSIFIED FARMING

July 10, 1989

Senator David Boren
Hart Senator Office Building
Washington, D.C. 20510

Dear Mr. Boren,

We support the National Cotton Council position on Cotton Research and Promotion Amendments. We urge your support on this matter.

We request communication be included on record at the official hearing on the Cotton Research and Promotion Act Amendments.

Sincerely,

Donald J. Gilkey
Donald J. Gilkey

S. M. FEWELL & Co.

INCORPORATED

POST OFFICE BOX 188
VANCE, MISSISSIPPI 38964

July 11, 1989

The Honorable David L. Boren
United States Senate
Washington, DC 20510

Dear Senator Boren:

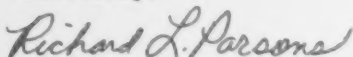
I am advised that the Sub-committee on Domestic and Foreign Marketing and Product Promotion of the Senate Committee of Agriculture, Nutrition and Forestry is scheduled to review the research and promotion program for cotton, and to consider an amendment to the Cotton Research and Promotion Act of 1966, on July 14, 1989.

Cotton producers strongly believe there is a continued need for a coordinated research and promotion program to maintain and expand cotton markets. The program authorized by the Cotton Research and Promotion Act has made scientific contributions to the cotton industry through research, new product development and by building consumer awareness and recognition of cotton products.

However, cotton industry leaders are in general agreement that additional funding is needed and that it be secured through appropriate legislation, educational programs, and referendum. Those agreements are incorporated in the Cotton Research and Promotion Act Amendment of 1989, which will be submitted to your Sub-committee on July 14, 1989. We strongly urge your support of this amendment.

I would appreciate if this letter can be made a part of the hearing record.

Sincerely,



Richard L. Parsons

ljk

TOMMY R. FUNK
310 E. AUSTIN
HARLINGEN, TEXAS 78550

July 11, 1989

Senator David Boren, Chairman
Sub-Committee on Domestic and
Foreign Marketing and Product Promotion
Russell Senate Office Building
Washington, DC 20510

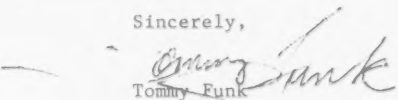
Dear Senator Boren:

First, let me thank you for your efforts and consideration of the Cotton Research and Promotion Act and the cotton industry's efforts to make this program fair and equitable to foreign beneficiaries as well as domestic cotton producers.

As a cotton producer who has voluntarily supported Cotton Inc. since 1963, I wholeheartedly support the concept of a uniform and mandatory checkoff. At a time when our country is trying to reduce government costs a program totally funded by those receiving the benefit is surely in our nation's best interest.

Again, thank you for your consideration and I hope you will make my support of the Cotton Promotion and Research Act amendment part of your official hearing record.

Sincerely,


Tommy Funk

TF:yr

cc: Phil Burnett
National Cotton Council



July 10, 1989

Senator David Boren
423 Russell Senate Office Building
Washington D.C. 20510

Honorable Sir:

I would like to urge your support of the Cotton Research and Promotion Act Amendment of 1989. I feel this program is a great asset to the cotton producer of Oklahoma. Due to the large amounts of foreign textile imports, with 80% foreign grown cotton, I would like to see our foreign competitors pay their fair share into this program.

I would like to request that this communication be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

Dennis B. Vernon
Vice President

DBV:jp

33-782

95



Arizona Cotton Growers Association

4139 E. Broadway / Phoenix, Arizona 85040 / (602) 437-1344

July 10, 1989

Senator David L. Boren
Chairman, Sub-Committee on
Domestic & Foreign Marketing
and Product Promotion
Agriculture, Nutrition & Forestry Committee
453 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the Arizona Cotton Growers Association which represents some 1300 cotton producers, I am writing to indicate our strongest possible support for the Cotton Research and Promotion Act Amendments of 1989.

This legislation, in brief, is designed to strengthen the opportunity of America's cotton industry to further research and marketing of American cotton products. The legislation would make the current voluntary assessment program mandatory, subject to a referendum, and to impose a surtax on cotton imports that take advantage of our own grower paid advertising to promote their products.

You might be interested in knowing that 80% of the growers in Arizona are committed to the CI assessment program.

I urge your support for this important legislation.

I would request that this letter be made a part of your hearing record on this legislation.

With warmest regards,

Rick C. Lavis
Rick C. Lavis
Executive Vice President

cc: Phil Burnett, NCC (Memphis)
John Maguire, NCC (Washington)
Arizona CI Delegates

JAMES W. CLARKE
Chairman of the Board
Bismarck
RONALD RAYNER
President
Globe
ROBERT BARKLEY
Vice President
Tucson
TED PERCE
Vice President
Butte
PAUL FRECHET
Vice President
Coolidge
LARRY JARMON
Secretary-Treasurer
Litchfield Park
RICK C. LAVIS
Executive Vice President
Phoenix
JAMES ACCOMAZZO
Tucson
OLIVER ANDERSON
Maricopa
DENNIS GAGNALL
Coolidge
LLOYD BARNARD
Litchfield Park
KIM BARNETT
Wickenburg
DELBURT BEYER
Butte
BRUCE BROOKS
Phoenix
DAN W. CLARKE
Tucson
JEFFREY COOLEY
Mesa
DAVID DALEY
Casa Grande
MARK DOBSON
Mesa
W. A. "SONNY" DUNEY
Maricopa
FRED W. ENKE
Casa Grande
J. S. FRANCIS, JR.
Phoenix
W. T. GLADDEN
Butte
MARK HAMILTON
Elizabethtown
LARRY HANCOCK
Wickenburg
EDDIE HARRISON
Tucson
W. BRUCE HEIDEN
Butte
JAMES H. HENNESSY
Casa Grande
MARK HERRINGTON
Bullhead City
JOSEPH HOFFMAN
Tucson
ROGER HOOPER
Casa Grande
TOM KID
Casa Grande
JAY G. LAYTON
Tucson
WILEY MURPHY
Tucson
PATRICK PACHECO
Tucson
ANDER PALMER
Tucson
H. WAYNE PETERSON
Wickenburg
CHARLES POOLE
Phoenix
DALE ROGERS, JR.
Chandler
DAVID ROGERS
Elizabethtown
ALBERT ROVEY
Phoenix
RUSSELL SCHULTENHART
Elizabethtown
C. L. "BILL" SCOTT
Casa Grande
STEPHEN SOSSAMAN
Flagstaff
J. S. STEPHENS
Litchfield Park
DAN THELANDER
Phoenix
CARL E. WELER
Tucson
J. CLYDE WILSON
Litchfield Park
LEYTON WOOD, JR.
Mesa
LEYTON WOOD, JR.
Mesa
HOWARD E. YOUNGER
Coolidge
CHARLES F. YOUNGER
Butte
CHARLES A. "CHUCK" YOUNGER
Butte



FLOWERS FARMS

Post Office Box 39

Tunica, MS 38676

Telephone (601) 363-1121



July 10, 1989

The Honorable David L. Boren
Russell Senate Office Building
Washington, DC 20510

Dear Senator Boren:

As a cotton farmer in Mississippi, I am for the Cotton Research
and Promotion Act Amendment of 1989.

I think it is essential for promotion of United States cotton
and would like for this letter to be made a part of the official
hearing record.

Sincerely,

R. B. Flowers

RBF:pb



Great Plains
Production Credit Association

3120 N. Main, Box 537
Altus, Oklahoma 73521
405/482-3030

July 10, 1989

The Honorable David Boren
United States Senator
423 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Boren:

I would like to urge your support of the Cotton Research and Promotion Act Amendment of 1989. We feel that this program is very beneficial to the cotton producers in Southwest Oklahoma. In Jackson County alone, we have approximately 50,000 acres of irrigated cotton which has a significant impact on the financial well-being of this community. Since much of the textile imports contain foreign-grown cotton, it appears that these competitors should pay their fair share into the program.

I would request that this letter be made a part of the official record for the hearing to be conducted on July 14, 1989.

Your help in this matter would be greatly appreciated.

Sincerely,

Cecil H. Shepersen
President & CEO

CHS:nn



July 11, 1989

The Honorable David L. Boren
No. 453, Russell Senate Office Building
Washington, DC 20510

Dear Senator Boren:

We at Valley Co-op Oil Mill, representing 5,000 cotton producers in the Lower Rio Grande Valley, Coastal Bend and Winter Garden areas, strongly support the Cotton Research and Promotion Act Amendment of 1989.

We understand that you are conducting hearings on July 14 for testimony on commodity research and promotion checkoff bills and respectfully request that this communication be made a part of the official hearing record.

Your support of this important legislation is deeply appreciated by all of us.

Sincerely,

Hollis G. Sullivan
President and General
Manager

HGS:jc

33-782

99

VALCO BRAND • COTTONSEED PRODUCTS • AGRICULTURAL CHEMICALS

P.O. BOX 1310 • HARLINGEN, TEXAS 78551 • PHONE 512-426-4545

(This Paper Is Made From 100 Per Cent Cotton Fiber)

Hull Farms, Inc.

ROUTE 2, BOX 210
BLYTHE, CALIFORNIA 92225
(619) 922-0356

July 11, 1989

Senator David Boren
Chairman, Sub Committee on Domestic and
Foreign Marketing and Produce Promotion
Russell Senate Office Building
Washington D.C. 20510

Dear Senator Boren:

The Cotton Research and Promotion Act Amendments of 1989, have answered any doubts I have felt regarding this legislation.

As a cotton producer and gin owner, I fully support National Cotton Council position on this matter.

Please add this letter to your committee's record.

Sincerely,

Bob Hull

Bob Hull
Vice President

BH:ks

McFARLAND COOPERATIVE GIN, INC.

P. O. BOX 428 / (805) 792-3134 McFARLAND, CALIFORNIA 93250



July 12, 1989

The Honorable David Boren
The United States Senate
Washington, D.C. 20510

Dear Senator Boren:

As manager of a farmer's cooperative serving approximately 150 cotton growers, I wish to comment on the legislation concerning the Cotton Research and Promotion Act Amendment of 1989.

Your support is of utmost importance to the cotton industry. Mandatory fees on all domestically produced Upland cotton and on the cotton content of imported textile products are necessary for research and promotion. Also important, is the second referendum that allows only producers and importers who have paid the assessment for a minimum of 15 months to confirm approval of the amendment.

It would be appreciated if our statement could be made a part of the official hearing record.

Sincerely,

McFARLAND COOPERATIVE GIN, INC.

Stephen Taylor
Stephen Taylor, Manager

ST:dc

cc: Phillip C. Burnett

July 7, 1989

Sen. David L. Boren
U.S. Senate
Washington, D.C. 20510

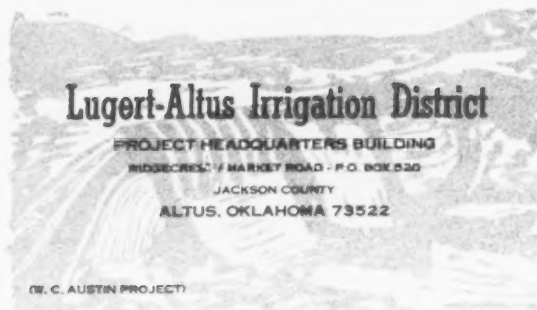
Dear Sen. Boren :

As cotton producers in northeastern Louisiana we urge you to support the proposed amendment to the "Cotton Research and Promotion Act". We favor the collection of assessments on the cotton content of imported textile and apparel products and also the elimination of the current refund provision. We feel these changes will make the program more effective and equitable. Please include our comments in the proper record of testimony concerning this issue.

Sincerely,

C. M. Noble, Jr.
C. M. Noble, III

C. M. Noble, Inc.
Rt. 3, Box 634
Rayville, LA 71269



July 8, 1989

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

Honorable Sir:

I would like to urge your support of the Cotton Research and Promotion Act Amendment of 1989. I feel this program is a great asset to the cotton producer of Oklahoma. Due to the large amounts of foreign textile imports, with 80% foreign grown cotton, I would like to see our foreign competitors pay their fair share into this program.

I would like to request that this communication be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,
LUGERT-ALTUS IRRIGATION DISTRICT

Donna Kirby
DONNA KIRBY
Manager

"The Irrigation Pioneer of Oklahoma"

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

July 8, 1989

Honorable Sir:

I would like to urge your support of the Cotton Research and Promotion Act Amendment of 1989. I feel this program is a great asset to the cotton producer of Oklahoma. Due to the large amounts of foreign textile imports, with 80% foreign grown cotton, I would like to see our foreign competitors pay there fair share into this program.

I would like to request that this communication be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

<i>E. W. Reaser</i>	<i>H. P. Lacey</i>
<i>Eddie Reaser</i>	<i>Dr. Carpenter</i>
<i>Joe Don Reaser</i>	<i>B. Anderson Jr</i>
<i>J. C. Fowler</i>	<i>Shirley L. Reaser</i>
<i>Lorene Reaser</i>	<i>Max Miller</i>
<i>Wes Borker</i>	<i>Andy Hamilton</i>
<i>Peggy Borker</i>	
<i>Frank White</i>	
<i>Steve Jamison</i>	
<i>Sharon Jamison</i>	
<i>Dawn Carpenter</i>	
<i>Beverly Carpenter</i>	

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

July 10, 1989

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay there fair share into this program. We would like to to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

*Members + Manager
Cotton Growers Co-op ALFUS OKLA,
Mike Remy mgr.*

*Egypt Planting
Company*J.T. Thomas III
Cruger, Ms. 38924

July 7, 1989

The Honorable David L. Boren
United States Senate
Washington, DC 20510

Dear Senator Boren:

I am advised that the Sub-committee on Domestic and Foreign Marketing and Product Promotion of the Senate Committee of Agriculture, Nutrition and Forestry is scheduled to review the research and promotion program for cotton, and to consider an amendment to the Cotton Research and Promotion Act of 1966, on July 14, 1989.

Cotton producers strongly believe there is a continued need for a coordinated research and promotion program to maintain and expand cotton markets. The program authorized by the Cotton Research and Promotion Act has made scientific contributions to the cotton industry through research, new product development and by building consumer awareness and recognition of cotton products.

However, cotton industry leaders are in general agreement that additional funding is needed and that it be secured through appropriate legislation, educational programs, and referendum. Those agreements are incorporated in the Cotton Research and Promotion Act Amendment of 1989, which will be submitted to your Sub-committee on July 14, 1989. We strongly urge your support of this amendment.

I would appreciate if this letter can be made a part of the hearing record.

Sincerely,

J. T. Thomas III

J. T. Thomas



C o / o P

FARMERS UNION COOPERATIVE GIN

BOX 128

DILL CITY, OKLAHOMA 73641

Phone 405-674-3356

JULY 11, 1989

SENATOR DAVID BOREN
RUSSELL SENATE OFFICE BUILDING
WASHINGTON, D. C. 20510

DEAR SIR:

AS A COTTON FARMER AND COTTON GIN MANAGER LIVING IN THE STATE YOU REPRESENT, I FEEL I SHOULD WRITE YOU URGING YOU TO SUPPORT THE COTTON AND RESEARCH PROMOTION ACT AMENDMENT OF 1989.

WITH ALL THE IMPORTS OF CLOTHING MADE IN FOREIGN COUNTRIES FROM COTTON PRODUCED IN FOREIGN COUNTRIES, TAKING THE MARKET AWAY FROM YOUR CONSTITUENTS, USING TECHNOLOGY DEVELOPED FROM THEIR DOLLARS FROM THE CHECKOFF FUNDS PAID BY THEM IS SURE HURTING THEM AT A BAD ECONOMIC TIME IN OUR FARMING COMMUNITY.

PLEASE MAKE THIS LETTER A PART OF THE OFFICIAL HEARING RECORD.

WE APPRECIATE YOUR SUPPORT IN THE PAST AND LOOK FORWARD TO YOUR SUPPORT ON THIS MATTER.

SINCERELY YOURS,

Doyle R. Loftiss
DOYLE R. LOFTISS

July 12, 1989

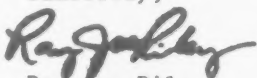
Senator David Boren, Chairman
Subcommittee on Domestic and Foreign Marketing
and Product Promotion
Russell Senate Office Building, Room 4721
Washington DC 20510

Dear Senator Boren:

As a cotton producer I strongly support enactment of legislation amending the Cotton Research and Promotion Act to eliminate the refund provision and establish a uniform assessment on all domestically produced cotton, with the explicit provision that such legislation includes an assessment on the cotton content of imported textile products above a de minimus figure established by the Secretary of Agriculture.

Your support of this effort will be greatly appreciated.

Sincerely,



Ray Joe Riley
HCR 2 Box 59
Hart, Texas 79043

/j

cc: Senator Lloyd Bentsen
Senator Phil Gramm



4510 Englewood Lubbock, Texas 79414

806/792-4904

July 12, 1989

Senator David Boren, Chairman
Subcommittee on Domestic and Foreign Marketing
and Product Promotion
Russell Senate Office Building, Room 4721
Washington DC 20510

Dear Senator Boren:

Plains Cotton Growers, Inc., representing cotton producers in 25 Texas High Plains counties, wishes to reconfirm its position in favor of an amendment to the Cotton Research and Promotion Act that would eliminate the refund of uniform assessments on domestic production, conditioned on (1) application of the assessment to the cotton content of imported textile products above a practical minimum percentage and (2) majority approval of the amendment in a producer referendum.

We respectfully request that this correspondence be made a part of the official hearing record and solicit your full support of our position.

Sincerely,

Steve Verett
President

/j

cc: Senator Lloyd Bentsen
Senator Phil Gramm



SUPPORTER OF COTTON INCORPORATED

Senator David Boren
423 Russell Senate Office Building
Washington D. C. 20510

July 10, 1989

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay there fair share into this program. We would like to to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

Lee Collins, Sect.

Co. op Ginner's Assn of OK.

*Cooperative Ginners of Okla
Box 157
Frederick 73542*

July 8, 1989

Senator David Boren
423 Russell Senate Office Building
Washington, D.C. 20510

Honorable Sir:

I would like to urge your support of the Cotton Research and Promotion Act Amendment of 1989. I feel this program is a great asset to the cotton producer of Oklahoma. Due to the large amounts of foreign textile imports, with 80% foreign grown cotton, I would like to see our foreign competitors pay their fair share into this program.

I would like to request that this communication be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

Sherrill K. Teel
Sherrill K. Teel
1908 Robin
Altus, OK 73521

**HUMPHREYS FARMERS UNION COOP**

Route 1, Box 50
ALTUS, OKLAHOMA 73521
Phone 738-5374

July 11, 1989

Senator David Boren
423 Russell
Senate Office Building
Washington, D.C. 20510

Honorable Sir:

The Cotton Research and Promotion Act has been a great asset to Cotton Producers in Oklahoma. With the growing number of foreign grown cotton imported into the United States in the form of imported textiles, we feel these importers should pay there fair share into this program. We would like to urge your support of the Cotton Research and Promotion Act Amendments of 1989.

I would like to request that this letter be made part of the official hearing record.

Your consideration of this matter will be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Jim Holder".

Jim Holder
Manager

JH/cs

From: Oklahoma Farmers Union
Mutual Insurance Company
1141 West Sheridan
PO Box 24000
OKla City, OK 73124

July 11, 1989

The Honorable David Boren
United States Senate
Washington, D. C. 20510

Dear Senator Boren:

I strongly urge your support in voting against the elimination of the current refund provision and establishment of a uniform assessment on all upland cotton produced in the United States.

I also urge you to place an assessment on the cotton content on imported cotton and textiles into the United States.

It is my feeling, Senator, with a mandatory check off, it would greatly improve the American cotton producer as well as the American consumer and the American work force connected with the textile industry.

I am requesting that this communication be made a part of the official hearing record.

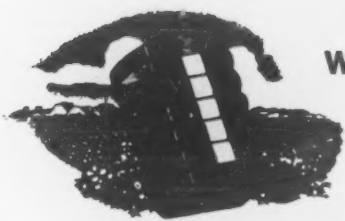
Again, I appreciate your work and support done on behalf of agriculture.

Sincerely,

John F. Stermer

John F. Stermer
Cotton Producer

sm



Wilmot Gin Company

P.O. Box 97
Wilmot, Arkansas 71676

July 10, 1989

The Honorable David Boren
United States Senate
Washington, D. C. 20510

Dear Senator Boren,

This letter is to urge support for the collecting of assessments on cotton content of imported textile and apparel products. Also please work for the elimination of the current refund provision. As cotton producers we need these programs to help us market and do research on our crop.

Please include this in the record and testimony of your hearing.

Sincerely,

Neill Sloan
Neill Sloan

33-782

114



SOUTH TEXAS COTTON AND GRAIN ASSOCIATION, INC.

1502 E. AIRLINE, SUITE 301/VICTORIA, TEXAS 77801-4118
 TELEPHONE (512) 575-0631

July 7, 1989

The Honorable David Boren
 U.S. Senate
 Rm 453 Russell Senate Building
 Washington, D.C. 20510

Dear Mr. Boren:

Our organization is a certified cotton producer organization which represents farmers in the Coastal Bend, Upper Coast and Winter Garden areas of Texas. The association has been working with area farm producers since 1963.

We understand that amendment will be offered to the Cotton Research and Promotion Act, which is currently being reviewed before the Product Promotion Subcommittee of the Senate Agriculture Committee. The proposal would allow assessment to be made on imported cotton goods to help fund domestic cotton research and promotion programs.

We wish to encourage adoption of this very important amendment. It is our feeling that much of the efforts we make under this program benefit importers of cotton goods who do not have to pay their fair share of the program's financial burden. We respectfully ask that you support amendment to the Cotton Research and Promotion Act which would correct this situation.

We will be contacting Senator Bentsen and Senator Gramm to request their support of this amendment. Your kind consideration is very much appreciated, and we request that this letter be entered for public record.

Sincerely,

R. David Oefinger

R. David Oefinger
 Executive Director

First National Bank
of Altheimer

July 13, 1989

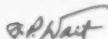
United States Senator David L. Boren
United States Senate
Washington, D. C. 20510

Dear Senator Boren:

As a Banker and a farmer, we are very interested in the passage of amendment to the Cotton Research and Promotion Act in regards to the assessment on cotton contents on imported textiles and apparel products. Also we are strongly in favor of the elimination of the refund provisions on the check-off.

We would appreciate your favorable consideration in this matter. Thank you.

Sincerely,



J. P. Walt
President

JPW/st

Copy: Senator Dale Bumpers
Senator David Pryor
and
Cotton Council Office

Baxter Land Company
INCORPORATEDW. A. BAXTER, PRESIDENT
JOHN M. BAXTER, SECRETARY
PHONE 538-3282 A/C 501

DERMOTT, ARKANSAS 71638

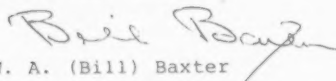
July 10, 1989

Senator David Boren
Russell Senate Office Building 453
Washington, D. C. 20510

Dear Senator Boren:

Please note my support for the enacting legislation for mandatory assessment in the "Cotton Research and Promotion Checkoff." This legislation is vital to the continuation of the fine program now in place for the benefit of cotton. Please make my letter a part of the official hearing record.

Yours very truly,


W. A. (Bill) Baxter

WAB:js

THAD R. FREELAND, General Manager

PHONE: EXport 2-2291
P. O. BOX 98**TILLAR AND COMPANY**

Farmers - Ginners - Merchants

SINCE 1880

TILLAR, ARKANSAS

71670

Honorable Senator David Boren
Chairman, Subcommittee on Domestic and Foreign Marketing
and Product Promotion
United States Senate
Washington, D.C. 20510

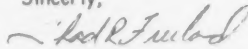
Senator Boren,

I am a cotton farmer from Arkansas. I strongly favor the proposed amendment to Cotton Research and Promotion Act, which would eliminate the current refund provision and establish a uniform assessment on all domestically produced cotton. Also, an equal assessment on the cotton content of imported textile products.

As an advocate for cotton assessment, I believe in the self help program that exist and believe that all the benefits are returned to the producers, users, and consumers of cotton.

Please have my letter part of the official hearing record.

Sincerely,



Thad R. Freeland

Robert E. McLendon

P. O. BOX 337

LEARY, GEORGIA 31762

July 13, 1989

812-792-6184

Senator David L. Boren
Russell Senate Office Building
Washington, D. C.

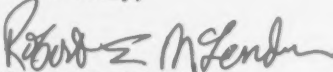
Dear Senator Boren,

It is my understanding that your Subcommittee on Domestic and Foreign Marketing and Product Promotion has scheduled a hearing on July 14 for testimony on commodity research and promotion checkoff bills.

As a Georgia cotton farmer, I support enactment of legislation amending the Cotton Research and Promotion Act to include (1) elimination of the current refund provision and establishment of a uniform assessment on all domestically produced Upland cotton, and (2) application of an assessment on the cotton content of imported textile products. I believe these amendments are necessary for the continued growth of the cotton industry.

Please include my letter in the official hearing record for your subcommittee. Your support and assistance is needed and appreciated.

Yours truly,



Robert E. McLendon

REM

Gramling
509 Lark
Altus, Okla. 73521

July 12, 1989

The Honorable David Boren
United States Senator
423 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Boren:

I would like to urge you to consider supporting the Cotton Research and Promotion Act Amendment of 1989. I feel that this program would be very beneficial to the cotton producers of Southwest Oklahoma.

With a great percent of our foreign-grown cotton being involved in foreign-textile imports, I think it is only fair that foreign competitors pay their fair share into the program.

I would request that this letter be made a part of the official record for the hearing to be conducted on July 14, 1989.

Thank you for all that you are doing to help the people of Oklahoma.

Sincerely,

T. L. Gramling
T. L. Gramling

July 10, 1989

The Honorable Senator David Boren
Russel Senate Office Building
Washington D.C. 20510

Dear Sir;

As a cotton grower I would like to express my concerns with regard to the Cotton Research and Promotion Act Amendments of 1989.

I am in total support of legislation that would eliminate the current refund provision and the establishment of a uniform assessment on all domestically produce upland cotton.

I also favor the application of an assessment on the cotton content of imported textile goods.

The implementations of these changes would more equitably distribute the financial burden of research and promotion of the cotton fibre.

I also hereby request that my stated concerns be made a part of the official hearing record.

Thank you,

Jacob Schuh Jr.
377 Circle Drive
Chowchilla, Ca. 93610



THE IMPEX GROUP, INC.

INTERNATIONAL MARKETING

14742 NEWPORT AVE, SUITE 203
P.O. BOX 208
TUSTIN CALIFORNIA 92680
PHONE (714) 544-3911
TELEX 295-636 IMPX UR
FAX (714) 544-5714

STATEMENT BY

HANS J. BOEDEKER
PRESIDENT
THE IMPEX GROUP, INC.
14742 Newport Ave., Ste. 203
Tustin, CA 92680

TO THE
UNITED STATES SENATE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY
SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING
AND PRODUCT PROMOTION

JULY 14, 1989

RE: AMENDMENTS TO THE HONEY RESEARCH, PROMOTION,
AND CONSUMER INFORMATION ACT



THE IMPEX GROUP, INC.

INTERNATIONAL MARKETING

14742 NEWPORT AVE. SUITE 203
PO BOX 206
TUSTIN, CALIFORNIA 92680
PHONE (714) 544-3811
TELEX 295-63G IMPX UR
FAX (714) 544-8714

On behalf of my company, The Impex Group, Inc., a major importer of honey to the U.S., I want to express my views with regard to the issue of refunds of assessment fees claimed by U.S. Honey importers.

The undersigned has been involved with the U.S. honey industry for some 20 years and I can say without hesitation, that the formation of the National Honey Board is, without a doubt, one of the most positive developments that has taken place in the honey industry in recent years.

Consequently, I feel that the National Honey Board needs to be supported 100% and assessment refunds both to importers as well as beekeepers should be kept to a minimum. It is for this reason that I am making this statement with regard to the original intent of the Order concerning refunds to importers, that is, to allow an individual importer to receive as a refund only a percentage of his assessment equal to the percentage that the domestic producers as a whole receive for the year. Again, this was the original intent. However, USDA has chosen to interpret the order differently which has resulted in a number of importers being able to receive all of their assessment fees back as refunds.

As an importer, my company operates in a severely competitive market. Being a staunch supporter of the National Honey Board, on which I serve as importer-representative, I find it extremely difficult to continue to compete with those honey importers who request and are granted full refunds. I have voiced this concern on previous occasions to members of the industry and, unless changes are made quickly, my company --simply to stay competitive-- may be forced to file for refunds as well. As a member of the Board, I have already seen a steady increase in refund applications and payments to both producers and importers alike. Without the suggested change in the assessment procedure, I am afraid that refund spiraling will result which could greatly impair the effectiveness of the National Honey Board in the future.

Having said this, I, therefore, reiterate my earlier statement that this issue be resolved by interpreting the Order as originally intended, i.e. that importers filing for refunds are to receive only a percentage of their assessment that is equal to the percentage received by domestic producers as a whole for a given year and support the proposed amendment as it relates to this issue.

Thank you for your consideration.

WESTERN PECAN GROWERS ASSOCIATION

P.O. BOX 315 MESILLA PARK, NM 88047

President
Gary Arnold

1st Vice President
Paulina Salopeck

2nd Vice President
Dave Lowry

Secretary, Treasurer
Les Flecher

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July 10, 1989

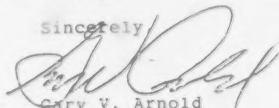
Senator David Boren
United States Senate
Washington, D. C.

Dear Senator Boren:

This letter is the Western Pecan Growers Association's official endorsement of S. 962, the "Pecan Promotion and Research Act of 1989." I can feel confident that our entire Board of Directors and Membership support this legislation without exception. We feel that S. 962 will be the catalyst to send the pecan industry back to its former healthy and viable condition of which we enjoyed for many decades.

We would also like very much to thank you for your generous support and efforts in behalf of pecan growers through-out the United States.

Sincerely,



Gary V. Arnold
President
Western Pecan Growers Association

GVA/ls

cc: Fred Beshears, President
Federated Pecan Growers U.S.A.





California Pecan Growers Assoc.

3008 So. BURKE
VISAUA, CA 93277
(209) 732-7306

June 5, 1989

Honorable David Boren
United States Senator
Senate Office Building
Washington, D.C.

Dear Senator Boren:

On behalf of the California Pecan Growers Association and other members of the California pecan industry, I wish to express my support and approval of Senate Bill 962.

The multi-state nature of the U.S. pecan industry has prevented any effective commodity promotion that could benefit all producers. Voluntarily funded efforts have not been able to compete with tree nut industries such as almonds and walnuts with strong marketing programs. A marketing order that assesses all growers for the purpose of generic promotion and market development is a fair and necessary tool to keep the pecan industry competitive and viable.

S.B. 962 contains adequate provisions for industry representation and grower input through the referendum process. The proposed initial assessment is not excessive yet will provide necessary funding for sorely needed promotional programs.

Please give every consideration to this very important legislation.

Sincerely,

BRIAN BLAIN
Vice President

*Arizona Pecan Growers Association**P.O. Box 308**Wenden, AZ 85357**(602) 859-3418*

The Honorable David Boren
United States Senate
Washington, D.C. 20510

June 29, 1989

Dear Senator Boren;

This letter is in reference to Senate bill 962.

Arizona is the fourth largest producer of improved variety Pecans in the United States. We are faced, as are all the Pecan producing states, with stiff competition. This competition comes from not only other nuts such as Almonds and Walnuts, but from other countries as well. These countries are Mexico and Australia. We need help promoting our product in local as well as foreign markets. We need Senate Bill 962 to pass. With rising production costs, even the most efficient operations are hard pressed to make ends meet. Can you imagine Holidays without Pecan Pie, no Butter Pecan Ice Cream and no Pecans in Fudge Brownies? Pecan prices to the grower were at thier lowest this last season since 1975.

In Arizona, presently we have 14,163 producing acres. We have another 4,000 which are not yet bearing. We're faced with low prices and maturing orchards. As yet, we (the Industry) have been unable to organize to benefit the whole Industry. We have the opportunity with Bill 962. Marketing Research and Development are so desperately needed. The potential is there, all we need is the avenue. To try and operate a marketing program through voluntary support(The National Pecan Marketing Council) is counter productive. One can not proceed securely. We do not have national fund raisers to helpout. Effective advertising is not free. The end result is that the few growers who do contribute carry the whole industry. They get tried of supporting everyone else and inturn, discontinue their support.

As chairman of the newly organized Arizona Pecan Growers Association, I can not express to you the importance of this Bill to the future of our Industry. This is the second attemp at a "marketing order". The first, in 1983, met with opposition from various Shellers and Growers.

Page Two
Senate Bill 962

The current version of the Bill has been the combined effort of both groups. It has their support. It has the support of the Arizona Growers and the Arizona Farm Bureau.

I urge you to support this vitally important Bill. I assure you will not be alone. Your cooperation in this matter is greatly appreciated.

Sincerely,



Karen H. Gustafson
Chairman

Arizona Pecan Growers Association

FLORIDA PECAN GROWERS ASSOCIATION

2109 HS/PP
UNIVERSITY OF FLORIDA
GAINESVILLE, FLORIDA 32611

Post Office Box 395
Monticello, Florida 32344

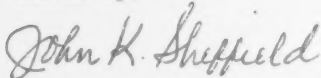
July 10, 1989

Senator David Boren
The United States Senate
Washington, D.C. 20510

Dear Senator Boren,

As President of the Florida Pecan Growers Association, I am very supportive of Senate Bill 962, the "Pecan Promotion and Research Act of 1989". I feel that it will have an enormously positive impact on the pecan industry. I earnestly solicit your vote and support on this bill. Thank you for your attention.

Sincerely,

A handwritten signature in cursive script that reads "John K. Sheffield".

John K. Sheffield
President
Florida Pecan Growers Association



Mississippi Pecan Growers Association

President
John Barnett
P. O. Box 123
Sherard MS 38669

Sec/Treasurer
Freddie Rasberry
P. O. Box 5446
Mississippi ST 39762

Vice-President
Hilliard Lawler
P. O. Box 367
Rosedale MS 38769

June 28, 1989

TO WHOM IT MAY CONCERN

This letter is to inform whom it may concern that the Mississippi Pecan Growers Association endorses Senate Bill 5962

Sincerely,

Freddie Rasberry

John Barnett

A handwritten signature in cursive script that reads "Freddie Rasberry".

A handwritten signature in cursive script that reads "John Barnett".

LOUISIANA PECAN GROWERS' ASSOCIATION



DR. EARL PULS, JR.
SECRETARY/TREASURER
(504) 388-2222

268G KNAPP HALL • LOUISIANA STATE UNIVERSITY • BATON ROUGE, LA 70803

June 26, 1989

Senator David Boren
Capitol Building
Washington, DC 20510

Dear Senator Boren:

The membership of the Louisiana Pecan Growers' Association would like to commit our 100% endorsement of Senate Bill 962 proposing a pecan marketing and research act.

The pecan industry is attempting to generate, through this bill, funds to support marketing, promotion and research for pecans. The pecan industry has fallen behind other nut products in terms of market value, and through this act we are attempting to help bring this discrepancy more in line with other nut products.

Please help eliminate this disparity by supporting the bill calling for pecan marketing and promotion. Thanks very much for your continued support.

Sincerely,

Earl Puls, Jr.
—Secretary/Treasurer

EP:cbg

TEXAS PECAN GROWERS ASSOCIATION

P.O. DRAWER CC
COLLEGE STATION, TEXAS 77841
(409) 775-8300

PRESIDENT
ERROL JOHN DIETZE
104 N. Gonzales
Cuero, TX 77954

VICE PRESIDENT
HAL BERDOLL
Rt 1, Box 605A
Cedar Creek, Texas 78612

U. S. Senator David L. Boren
Senate Russell Office Building, #453
Washington, D.C. 20510

July 7, 1989

EXECUTIVE DIRECTOR
NORMAN WINTER



Dear Sen. Boren:

The Texas Pecan Growers Association, the largest pecan producing organization in the country, overwhelmingly supports the Pecan Promotion and Research Act of 1989, Senate Bill 962.

Senator, our industry is in deep trouble. Pecan prices have dropped twenty-five percent since 1986. Many growers and shellers are unable to make a profit, and the 1987 tax law has dried up funds from other income that some of them could have used to underwrite their pecan losses. Variable interest bank loans are ranging around fourteen percent, with practically no new loans to pecan growers. Many growers are near bankruptcy; the few orchards that are being sold are going for a fraction of their value.

Pecans are native to Texas, and have been part of our agricultural economy for well over 100 years. Senator, Bill 962 must be passed for the whole industry to survive! Only then can pecans unite as one voice in the marketplace and face the competition of the other nuts.

We applaud your efforts as well as those of Senators Fowler, Nunn, Pryor, Thurmond, and Lott, who have all worked in behalf of the pecan industry.

Sincerely,

Norman Winter
Executive Director

NW/k1

-DIRECTORS-

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Matthews, GA 30818
(404) 547-6211

Executive Secretary-Treasurer
SARA H. HINES (Mrs. Chesley)
1104 Friar Tuck Road
Starkville, MS 39759
(601) 323-5873

Honorable David Boren
Senate Subcommittee
Domestic and Foreign Marketing
Washington, D. C.

This note is to inform you that the Southeastern Pecan Growers Association were unanimous in their vote to support the Federated Pecan Growers of the United States Marketing Proposal known as Senate Bill 962. Not only are we unanimously behind this marketing proposal, we are ready to step forward to help in any way possible.

Sincerely,

Joe Mal—2

Joe B. Adams, Jr.
President

JBAJr/tp

Georgia Pecan Growers Association, Inc.

18 Quail Street
Leesburg, GA. 31763

PRESIDENT

John Bulloch
Route One
Ochlocknee, GA 31773

July 10, 1989

VICE PRESIDENT

Mike Horns
Route Two, Box 149K
Andersonville, GA 31711

SECRETARY

Mrs. Jane Crocker
18 Quail Street
Leesburg, GA 31763

Senator David Boren
Senate Sub-Committee
Chairman of Domestic and Foreign Marketing

EDUCATIONAL ADVISOR

Dr. Tom Crocker
P.O. Box 826
Tifton, GA 31793

Dear Senator Boren:

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3101 Radium Springs Road
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Albany, GA 31707

C. M. (Buddy) Leger
P.O. Box 486
Cordele, GA 31015

Larry Willson
Pecan City
Albany, GA 31706

James R. Buchanan, III
Buchanan Farms, Inc.
206 Patton Drive
Americus, GA 31709

The Georgia Pecan Growers Association, Inc., officers and directors unanimously endorse the "Pecan Promotion and Research Act of 1989." It is a good first step to return our industry to profit ability. Pecans are the only nut crop that have no self-help program in place. This bill will strengthen the pecan industry and give additional market development to handle increased production coming on-stream. This research and promotion act would be just the vehicle we need to expand the market place.

Bill #962 would be a positive step into the future. The pecan industry desperately needs this program. Pecan growers, accumulators and shellers all feel this is the best hope for a solution to some of the major problems the pecan grower is facing.

Sincerely,

John Bulloch
John Bulloch
President

JB/jc

101ST CONGRESS
1ST SESSION

S. 836

To amend the Potato Research and Promotion Act to provide potato producers with improved methods of assessment for financing a more effective marketing research and promotion program, to provide an effective consumer information program designed to expand the market for potatoes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 19 (legislative day, JANUARY 3), 1989

Mr. MITCHELL (for himself, Mr. BOND, Mr. MCCLURE, and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Potato Research and Promotion Act to provide potato producers with improved methods of assessment for financing a more effective marketing research and promotion program, to provide an effective consumer information program designed to expand the market for potatoes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Potato Research and
5 Promotion Act Amendments of 1989".

1 SEC. 2. FOREIGN COUNTRIES.

2 Section 302 of the Potato Research and Promotion Act
3 (7 U.S.C. 2611) is amended—

4 (1) in the first sentence, by inserting “and foreign
5 countries” before the period at the end thereof;

6 (2) in the second sentence, by inserting “, and im-
7 ported into the United States from foreign countries”
8 before the period at the end thereof; and

9 (3) in the last sentence, by inserting “and import-
10 ed into the United States from foreign countries” after
11 “harvested in the United States” and before the period
12 at the end thereof.

13 SEC. 3. DEFINITIONS.

14 Section 303 of the Potato Research and Promotion Act
15 (7 U.S.C. 2612) is amended—

16 (1) in subsection (c)—

17 (A) by striking out “forty-eight contiguous”
18 and inserting in lieu thereof “50”; and

19 (B) by inserting “and foreign countries”
20 before the period at the end thereof; and

21 (2) by adding at the end thereof the following new
22 subsection:

23 “(g) The term ‘importer’ means any person engaged in
24 importing tablestock, frozen, processed, or seed potatoes into
25 the United States or who acts as an agent, broker, or con-

1 signee for any person or nation that produces Irish potatoes
2 outside the United States for sale in the United States.”.

3 SEC. 4. AUTHORITY TO ISSUE PLANS.

4 The last sentence of section 304 of the Potato Research
5 and Promotion Act (7 U.S.C. 2613) is amended—

6 (1) by striking out “forty-eight contiguous” and
7 inserting in lieu thereof “50”; and

8 (2) by inserting “and foreign countries” before the
9 period at the end thereof.

10 SEC. 5. REQUIRED TERMS AND CONDITIONS OF PLANS.

11 Section 308 of the Potato Research and Promotion Act
12 (7 U.S.C. 2617) is amended—

13 (1) in subsection (b)—

14 (A) in the first sentence, by inserting “and
15 importers” after “representatives of producers”;

16 (B) in the second sentence, by inserting “and
17 importers” after “Representatives of producers”
18 and after “nominated by producers”; and

19 (C) in the fourth sentence, by inserting “or
20 importers” after “If producers”; and

21 (2) by striking out subsection (g) and inserting in
22 lieu thereof the following:

23 “(g) With regard to each order issued under this Act
24 that provides for a producer refund, the Secretary shall
25 amend such order to eliminate such refund.”.

1 SEC. 6. ASSESSMENTS.

2 Section 310 of the Potato Research and Promotion Act
3 (7 U.S.C. 2619) is amended—

4 (1) in subsection (c) by striking out “subsections
5 (a) and (b)” and inserting in lieu thereof “subsections
6 (a), (b), and (d)” and

7 (2) by adding at the end thereof the following new
8 subsection:

9 “(d)(1) The board shall establish the assessment rate on
10 imported tablestock, frozen, processed, or seed potatoes so
11 that the effective assessment rate shall equal the assessment
12 rate on domestic production.

13 “(2) Such assessment shall be paid by the importer to
14 the board at the time of entry into the United States.

15 “(3) An importer shall—

16 “(A) maintain a separate record indicating the
17 total quantity of tablestock, frozen, processed, or seed
18 potatoes imported into the United States that are in-
19 cluded under the terms of the plan and those that are
20 exempt under such plan; and

21 “(B) provide to the board such other information
22 as may be prescribed by the board.

23 “(4) An importer responsible for payment of assess-
24 ments under this subsection shall—

1 “(A) maintain and make ~~available~~ for inspection
2 by the Secretary such books and records as are re-
3 quired by the plan; and

4 “(B) file reports at the times, and in the manner,
5 and having the content prescribed by the plan.”.

6 SEC. 7. REFERENDUM.

7 Notwithstanding any other provisions of law, any
8 amendment made to the plan issued under the Potato Re-
9 search and Promotion Act (7 U.S.C. 2611 et seq.) as a result
10 of an amendment made by this Act shall become effective on
11 the date that the Secretary issues the amendment, without
12 being subject to a referendum.

101ST CONGRESS
1ST SESSION

S. 918

To enable producers of fresh mushrooms to develop, finance, and carry out a nationally coordinated program for fresh mushroom promotion, research, and consumer information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, JANUARY 3), 1989

Mr. BOREN (for himself, Mr. WILSON, Mr. PRYOR, Mr. NICKLES, Mr. FOWLER, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To enable producers of fresh mushrooms to develop, finance, and carry out a nationally coordinated program for fresh mushroom promotion, research, and consumer information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1.—This Act may be cited as the “Fresh
5 Mushroom Promotion, Research, and Consumer Information
6 Act”.

7 FINDINGS AND DECLARATION OF POLICY

8 SEC. 2. (a) FINDINGS.—Congress finds that—

1 (1) fresh mushrooms are an important food that is
2 a valuable part of the human diet;

3 (2) the production of mushrooms plays a signifi-
4 cant role in the Nation's economy in that mushrooms
5 for the fresh market are produced by hundreds of
6 mushroom producers, distributed through thousands of
7 wholesale and retail outlets, and consumed by millions
8 of people throughout the United States and foreign
9 countries;

10 (3) mushroom production benefits the environment
11 by efficiently using agricultural byproducts;

12 (4) mushrooms for the fresh market must be high
13 quality, readily available, handled properly, and mar-
14 keted efficiently to ensure that the benefits of this im-
15 portant product are available to the people of the
16 United States;

17 (5) the maintenance and expansion of existing
18 markets and uses, and the development of new markets
19 and uses, for fresh mushrooms are vital to the welfare
20 of producers and those concerned with marketing,
21 using, and producing mushrooms for the fresh market,
22 as well as to the agricultural economy of the Nation;

23 (6) the cooperative development, financing, and
24 implementation of a coordinated program of fresh
25 mushroom promotion, research, and consumer informa-

(7) mushrooms for the fresh market move in interstate and foreign commerce, and fresh mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in fresh mushrooms.

(c) CONSTRUCTION.—Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

24 SEC. 3. As used in this Act—

S 918 IS

1 (2) the term "Secretary" means the Secretary of
2 Agriculture;

3 (3) the term "Department" means the Depart-
4 ment of Agriculture;

5 (4) the term "person" means any individual,
6 group of individuals, partnership, corporation, associa-
7 tion, cooperative, or any other legal entity;

8 (5) the terms "fresh mushrooms" and "mush-
9 rooms for the fresh market" include all varieties of cul-
10 tivated mushrooms commercially grown within the
11 United States or imported into the United States that
12 are introduced into the channels of commerce, except
13 for mushrooms that are commercially marinated,
14 canned, frozen, cooked, blanched, dried, packaged in
15 brine, or otherwise processed, as may be determined by
16 the Secretary;

17 (6) the term "producer" means any person en-
18 gaged in the production of mushrooms who owns or
19 who shares the ownership and risk of loss of such
20 mushrooms and who produces, on average, over five
21 hundred thousand pounds of mushrooms for the fresh
22 market per year;

23 (7) the term "importer" means any person who
24 imports, on average, over five hundred thousand
25 pounds of mushrooms for the fresh market annually

1 from outside the United States or who acts, with re-
2 spect to an amount of mushrooms for the fresh market
3 that, on average, exceeds five hundred thousand
4 pounds annually, as agent, broker, or consignee of any
5 person or nation that produces mushrooms outside the
6 United States for sale in the United States;

7 (8) the term "first handler" means any person, as
8 described in an order issued under this Act, who re-
9 ceives or otherwise acquires mushrooms from a produc-
10 er and prepares for marketing or markets such mush-
11 rooms, including mushrooms of the person's own
12 production;

13 (9) the term "marketing" means the sale or other
14 disposition of mushrooms in any channel of commerce;

15 (10) the term "commerce" means interstate, for-
16 eign, or intrastate commerce;

17 (11) the term "United States" means the fifty
18 States of the United States of America and the District
19 of Columbia;

20 (12) the term "promotion" means any action
21 determined by the Secretary to enhance the image or
22 desirability of fresh mushrooms, including paid
23 advertising;

24 (13) the term "research" means any type of study
25 to advance the image, desirability, marketability, pro-

1 duction, product development, quality, or nutritional
2 value of fresh mushrooms;

3 (14) the term "consumer information" means in-
4 formation and programs that will assist consumers and
5 other persons in making evaluations and decisions re-
6 garding the purchase, preparation, and use of fresh
7 mushrooms; and

8 (15) the term "industry information" means infor-
9 mation and programs that will lead to the development
10 of new markets and marketing strategies, increased ef-
11 ficiency, and activities to enhance the image of the
12 fresh mushroom industry.

13 ISSUANCE OF ORDERS

14 SEC. 4. (a) GENERAL.—To effectuate the declared
15 policy of section 2(b) of this Act, the Secretary, subject to the
16 procedures provided in subsection (b), shall issue orders under
17 this Act applicable to producers, importers, and first handlers
18 of mushrooms for the fresh market. Any such order shall be
19 national in scope. Not more than one order shall be in effect
20 under this Act at any one time.

21 (b) PROCEDURES.—(1) The Secretary may propose the
22 issuance of an order under this Act, or an association of
23 mushroom producers or any other person that will be affected
24 by this Act may request the issuance of, and submit a propos-
25 al for, such an order.

1 (2) Not later than thirty days after the receipt of a re-
2 quest and proposal by an interested person for an order, or
3 when the Secretary determines to propose an order, the Sec-
4 retary shall publish the proposed order and give due notice
5 and opportunity for public comment on the proposed order.

6 (3) After notice and opportunity for public comment are
7 given, as provided in paragraph (2), the Secretary shall issue
8 the order, taking into consideration the comments received
9 and including therein provisions necessary to ensure that the
10 order is in conformity with the requirements under this Act.
11 Such order shall be issued and, after approval by producers
12 and importers of mushrooms as provided in section 6(a), shall
13 become effective not later than one hundred and twenty days
14 following publication of the proposed order.

15 (c) AMENDMENTS.—(1) The Secretary, from time to
16 time, may amend any order issued under this section.

17 (2) The provisions of this Act applicable to an order
18 shall be applicable to amendments to the order.

19 REQUIRED TERMS IN ORDERS

20 SEC. 5. Each order issued under this Act shall contain
21 the following terms and conditions:

22 (a) MUSHROOM COUNCIL.—(1) The order shall
23 provide for the establishment of, and selection of mem-
24 bers to, a Mushroom Council that shall consist of at
25 least four members and not more than nine members.

26 The members of the Council shall be fresh mushroom

1 producers and importers appointed by the Secretary
2 from nominations submitted by producers and importers
3 in the manner authorized by the Secretary, subject to
4 the provisions of paragraph (2): *Provided*, That no
5 more than one member may be appointed to the Coun-
6 cil from nominations submitted by any one producer or
7 importer.

8 (2) In making appointments, the Secretary shall
9 take into account, to the extent practicable, the geo-
10 graphical distribution of mushroom production through-
11 out the United States, and the comparative volume of
12 mushrooms for the fresh market imported into the
13 United States. In establishing such geographical distri-
14 bution, a whole State shall be considered as a unit and
15 such units shall be organized into four regions that
16 shall fairly represent the geographic distribution of
17 mushroom production within the United States. Im-
18 porters shall be represented as a separate region. The
19 Secretary shall appoint one member from each region
20 that produces or imports, on average, at least thirty-
21 five million pounds of fresh mushrooms annually. Sub-
22 ject to the nine-member limit on the number of mem-
23 bers on the Council provided in paragraph (1), the Sec-
24 retary shall appoint an additional member to the Coun-

1 cil for each additional fifty million pounds of production
2 or imports per year, on average, within the region.

3 (3) The term of appointment to the Council shall
4 be for three years, except that the initial appointments
5 shall to the extent practicable be proportionately for
6 one-year, two-year, and three-year terms. Council
7 members shall serve without compensation but shall be
8 reimbursed for their expenses incurred in performing
9 their duties as members of the Council.

10 (b) POWERS AND DUTIES OF THE COUNCIL.—
11 The order shall define the powers and duties of the
12 Council, which shall include only the following powers:

13 (1) To administer the order in accordance
14 with its terms and provisions;

15 (2) To make regulations to effectuate the
16 terms and provisions of the order;

17 (3) To appoint members of the Council to
18 serve on an executive committee;

19 (4) To propose, receive, evaluate, and ap-
20 prove budgets, plans, and projects of fresh mush-
21 room promotion, research, consumer information,
22 and industry information, as well as to contract
23 with appropriate persons to implement plans or
24 projects;

1 (5) To develop and propose to the Secretary
2 voluntary quality and grade standards for fresh
3 mushrooms;

4 (6) To receive, investigate, and report to the
5 Secretary complaints of violations of the order;

6 (7) To recommend to the Secretary amend-
7 ments to the order; and

8 (8) To invest, pending disbursement under a
9 plan or project, funds collected through assess-
10 ments authorized under this Act, only in obliga-
11 tions of the United States or any agency thereof,
12 in general obligations of any State or any political
13 subdivision thereof, in any interest-bearing ac-
14 count or certificate of deposit of a bank that is a
15 member of the Federal Reserve System, or in ob-
16 ligations fully guaranteed as to principal and in-
17 terest by the United States.

18 (c) PLANS AND BUDGETS.—

19 (1) The order shall provide that the Council
20 shall submit to the Secretary for approval any
21 plan or project of promotion, research, consumer
22 information, and industry information.

23 (2) The order shall require the Council to
24 submit to the Secretary for approval budgets on a
25 fiscal year basis of its anticipated expenses and

1 disbursements in the implementation of the order,
2 including projected costs of promotion, research,
3 consumer information, and industry information
4 plans and projects.

5 (3) No plan or project of promotion, re-
6 search, consumer information, or industry infor-
7 mation, or budget, shall be implemented prior to
8 its approval by the Secretary.

9 (d) CONTRACTS AND AGREEMENTS.—(1) To
10 ensure efficient use of funds, the order shall provide
11 that the Council may enter into contracts or agree-
12 ments for the implementation and carrying out of plans
13 or projects of fresh mushroom promotion, research,
14 consumer information, and industry information, includ-
15 ing contracts with producer organizations, and for the
16 payment of the cost thereof with funds collected under
17 the order. Any such contract or agreement shall pro-
18 vide that (A) the contracting party shall develop and
19 submit to the Council a plan or project together with a
20 budget or budgets that shall show estimated costs to be
21 incurred for such plan or project; (B) the plan or
22 project shall become effective on the approval of the
23 Secretary, and (C) the contracting party shall keep ac-
24 curate records of all of its transactions, account for
25 funds received and expended, and make periodic re-

1 ports to the Council of activities conducted, and such
2 other reports as the Council or the Secretary may re-
3 quire.

4 (2) The order shall provide that the Council may
5 contract with producer organizations for any other
6 services. Any such contract shall include provisions
7 comparable to those provided in subparagraphs (A),
8 (B), and (C) of subparagraph (1).

9 (e) BOOKS AND RECORDS.—The order shall re-
10 quire the Council to (1) maintain such books and
11 records (which shall be available to the Secretary for
12 inspection and audit) as the Secretary may prescribe;
13 (2) prepare and submit to the Secretary, from time to
14 time, such reports as the Secretary may prescribe; and
15 (3) account for the receipt and disbursement of all
16 funds entrusted to it.

17 (f) ASSESSMENTS.—(1) The order shall provide
18 that each first handler of mushrooms for the domestic
19 fresh market produced in the United States shall col-
20 lect, in the manner prescribed by the order, assess-
21 ments from producers and remit the assessments to the
22 Council. The order also shall provide that each import-
23 er of mushrooms for the domestic fresh market shall
24 pay assessments to the Council in the manner pre-
25 scribed by the order. Any person marketing mushrooms

1 of that person's own production directly to consumers
2 shall remit the assessments on such mushrooms direct-
3 ly to the Council in the manner prescribed in the
4 order.

5 (2) The order shall provide that the assessments
6 shall be used for payment of the expenses in imple-
7 menting and administering the order, with provision for
8 a reasonable reserve, and to cover those administrative
9 costs incurred by the Secretary after the order has
10 been promulgated under this Act. The rate of assess-
11 ment prescribed by the order shall be one-half cent per
12 pound of mushrooms for the fresh market in the first
13 year of the order, and one cent per pound of mush-
14 rooms for the fresh market in the second year of the
15 order; and thereafter, the assessment rate prescribed by
16 the order may not exceed two cents per pound of
17 mushrooms.

18 (3) No assessment may be collected on mush-
19 rooms that a first handler certifies will be exported as
20 fresh mushrooms.

21 (g) PROHIBITION.—The order shall prohibit any
22 funds collected by the Council under the order from
23 being used in any manner for the purpose of influenc-
24 ing government action or policy, except that such funds
25 may be used by the Council for the development and

1 recommendation to the Secretary of amendments to the
2 order as prescribed in this Act and for the submission
3 to the Secretary of voluntary grade and quality stand-
4 ards for mushrooms under the Agricultural Marketing
5 Act of 1946.

6 (h) BOOKS AND RECORDS.—(1) The order shall
7 require that each handler of mushrooms for the fresh
8 market or importer of fresh mushrooms maintain, and
9 make available for inspection, such books and records
10 as may be required by the order and file reports at the
11 time, in the manner, and having the content prescribed
12 by the order. In addition, the Secretary shall authorize
13 the use of information regarding handlers and import-
14 ers that may be accumulated under a law or regulation
15 other than this Act or regulations under this Act. Such
16 information shall be made available to the Secretary as
17 is appropriate to the administration or enforcement of
18 this Act, the order, or any regulation issued under this
19 Act.

20 (2) All information obtained by the Secretary
21 under paragraph (1) of this subsection shall be kept
22 confidential by all officers and employees of the De-
23 partment, and only such information so obtained as the
24 Secretary deems relevant may be disclosed by them
25 and then only in a suit or administrative hearing

1 brought at the request of the Secretary, or to which
2 the Secretary or any officer of the United States is a
3 party, and involving the order. Nothing in this para-
4 graph may be deemed to prohibit (A) the issuance of
5 general statements, based upon the reports, of the
6 number of persons subject to the order or statistical
7 data collected therefrom, which statements do not iden-
8 tify the information furnished by any person, or (B) the
9 publication, by direction of the Secretary, of the name
10 of any person violating the order, together with a
11 statement of the particular provisions of the order vio-
12 lated by such person.

13 (3) No information obtained under the authority of
14 this Act may be made available to any agency or offi-
15 cer of the Federal Government for any purpose other
16 than the implementation of this Act and any investiga-
17 tory or enforcement act necessary for the implementa-
18 tion of this Act. Any person violating the provisions of
19 this paragraph, upon conviction, shall be subject to a
20 fine of not more than \$1,000 or to imprisonment for
21 not more than one year, or both, and if an officer or
22 employee of the Council or the Department, shall be
23 removed from office.

1 (4) Nothing in this subsection shall authorize the
2 Secretary to withhold information from a duly author-
3 ized committee or subcommittee of Congress.

4 (i) OTHER TERMS AND CONDITIONS.—The order
5 also shall contain such terms and conditions, not incon-
6 sistent with the provisions of this Act, as necessary to
7 effectuate the provisions of this Act.

8 REQUIREMENT OF REFERENDA

9 SEC. 6. (a) INITIAL REFERENDUM.—Within the sixty-
10 day period immediately preceding the effective date of an
11 order, as provided in section 4(b), the Secretary shall conduct
12 a referendum among producers and importers of mushrooms
13 who, during a representative period as determined by the
14 Secretary, have been engaged in the production or importa-
15 tion of mushrooms for the fresh market. The purpose of the
16 referendum shall be to ascertain whether the order shall go
17 into effect. The order shall become effective, as provided in
18 section 4(b), only if the Secretary determined that it has been
19 approved by not less than a majority of those eligible and
20 voting in the referendum.

21 (b) SUCCEEDING REFERENDUMS.—No sooner than
22 three years following the effective date of an order, the Sec-
23 retary may conduct a referendum on the request of a repre-
24 sentative group comprising 30 per centum or more of the
25 number of producers and importers of mushrooms who,
26 during a representative period as determined by the Secre-

1 tary, have been engaged in the production or importation of
2 mushrooms for the fresh market to determine whether pro-
3 ducers and importers favor the termination or suspension of
4 the order. The Secretary shall suspend or terminate collec-
5 tion of assessments under the order within six months after
6 the Secretary determines that suspension or termination of
7 the order is favored by at least two-thirds of those eligible
8 and voting in any such referendum who, during a representa-
9 tive period as determined by the Secretary, have been en-
10 gaged in the production or importation of mushrooms for the
11 fresh market, and shall suspend or terminate the order in an
12 orderly manner as soon as practicable after such
13 determination.

14 (c) COSTS OF REFERENDUM.—The Secretary shall be
15 reimbursed from any assessments collected by the Council for
16 any expenses incurred by the Department in connection with
17 the conduct of any referendum under this section, except for
18 the salaries of Government employees. Referendums con-
19 ducted pursuant to this section shall be conducted in such a
20 manner as determined by the Secretary.

21 PETITION AND REVIEW

22 SEC. 7. (a) IN GENERAL.—Any person subject to an
23 order issued under this Act may file with the Secretary a
24 petition stating that the order or any provision of the order or
25 any obligation imposed in connection therewith is not in ac-
26 cordance with law and requesting a modification thereof or

1 an exemption therefrom. The petitioner thereupon shall be
2 given the opportunity for a hearing on the petition, in accord-
3 ance with regulations issued by the Secretary. After such
4 hearing, the Secretary shall make a ruling on the petition,
5 which shall be final if in accordance with law.

6 (b) DISTRICT COURT JURISDICTION.—The district
7 courts of the United States in any district in which such
8 person is an inhabitant or carries on business are hereby
9 vested with jurisdiction to review such ruling, if a complaint
10 for that purpose is filed within twenty days after the date of
11 the entry of such ruling. Service of process in such proceed-
12 ings may be had on the Secretary by delivering a copy of the
13 complaint to the Secretary, pursuant to such regulations as
14 the Secretary may prescribe. If the court determines that
15 such ruling is not in accordance with law, it shall remand
16 such proceedings to the Secretary with directions either (1) to
17 make such ruling as the court shall determine to be in ac-
18 cordance with law, or (2) to take such further proceedings as,
19 in its opinion, the law requires. The pendency of proceedings
20 instituted pursuant to subsection (a) of this section shall not
21 impede, hinder, or delay the United States or the Secretary
22 from obtaining relief pursuant to section 8 of this Act.

23 ENFORCEMENT

24 SEC. 8. The Secretary may issue orders to restrain or
25 prevent any person from violating an order or any regulation
26 issued under this Act and may assess a civil penalty of not

1 more than \$1,000 for violation of the order, following an op-
2 portunity for an administrative hearing, whenever the Secre-
3 tary believes that the administration and enforcement of this
4 Act and the order would be adequately served by such a
5 procedure. The district courts of the United States are vested
6 with jurisdiction specifically to enforce, and to prevent and
7 restrain any person from violating, the order or any regula-
8 tion made or issued under this Act. Any civil action author-
9 ized to be brought under this section shall be referred to the
10 Attorney General for appropriate action.

11 INVESTIGATIONS; POWER TO SUBPOENA AND TAKE OATHS
12 AND AFFIRMATIONS; AID OF COURTS

13 SEC. 9. The Secretary may make such investigations as
14 the Secretary deems necessary for the effective administra-
15 tion of this Act or to determine whether any person subject to
16 the provisions of this Act has engaged or is about to engage
17 in any act that constitutes or will constitute a violation of any
18 provision of this Act or of any order or regulation issued
19 under this Act. For the purpose of such investigation, the
20 Secretary may administer oaths and affirmations, subpoena
21 witnesses, compel their attendance, take evidence, and re-
22 quire the production of any records that are relevant to the
23 inquiry. Such attendance of witnesses and the production of
24 any such records may be required from anyplace in the
25 United States. In case of contumacy by, or refusal to obey a
26 subpoena issued to, any person, the Secretary may invoke

1 the aid of any court of the United States within the jurisdic-
2 tion of which such investigation or proceeding is carried on,
3 or where such person resides or carries on business, in requir-
4 ing the attendance and testimony of the person and the pro-
5 duction of records. The court may issue an order requiring
6 such person to appear before the Secretary to produce
7 records or to give testimony touching the matter under inves-
8 tigation. Any failure to obey such order of the court may be
9 punished by such court as a contempt thereof. Process in any
10 such case may be served in the judicial district in which such
11 person is an inhabitant or wherever such person may be
12 found.

13 SAVINGS PROVISION

14 SEC. 10. Nothing in this Act may be construed to pre-
15 empt or supersede any other program relating to mushroom
16 promotion organized and operated under the laws of the
17 United States or any State.

18 AUTHORIZATION

19 SEC. 11. There are hereby authorized to be appropri-
20 ated such funds as are necessary to carry out the provisions
21 of this Act. The funds so appropriated shall not be available
22 for payment of the expenses or expenditures of the Council in
23 administering any provisions of an order issued under this
24 Act.

101ST CONGRESS
1ST SESSION

S. 919

To enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, JANUARY 3), 1989

Mr. PRYOR (for himself, Mr. BOND, Mr. FOWLER, Mr. BOREN, Mr. HEFLIN, Mr. CONRAD, Mr. KASTEN, Mr. SASSER, Mr. BURDICK, Mr. THURMOND, Mr. McCONNELL, Mr. NUNN, Mr. NICKLES, Mr. GRASSLEY, Mr. COCHRAN, Mr. LOTT, Mr. SHELBY, Mr. DASCHLE, Mr. BUMPERS, Mr. KOHL, Mr. GRAHAM, Mr. PRESSLER, Mr. KERREY, Mr. EXON, Mr. DURENBERGER, Mr. HOLLINGS, Mr. DIXON, and Mr. DANFORTH) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Soybean Promotion, Re-
5 search, and Consumer Information Act".

1 SEC. 2. FINDINGS AND DECLARATION OF POLICY.

2 (a) FINDINGS.—Congress finds that—

3 (1) soybeans are an important source of nutritious
4 foods that are a valuable part of the human diet and
5 are an important feedstuff for the livestock industry;

6 (2) the production of soybeans plays a significant
7 role in the economy of the United States in that soy-
8 beans are produced by thousands of soybean producers,
9 processed by numerous processing entities, and soy-
10 beans and soybean products produced in the United
11 States are consumed by people and livestock through-
12 out the United States and foreign countries;

13 (3) soybeans and soybean products should be read-
14 ily available and marketed efficiently to ensure that
15 consumers have an adequate supply of soybean prod-
16 ucts at a reasonable price;

17 (4) the maintenance and expansion of existing
18 markets and development of new markets for soybeans
19 and soybean products are vital to the welfare of soy-
20 bean producers and those concerned with marketing,
21 using, and producing soybeans and soybean products,
22 as well as to the general economy of the United
23 States, and are necessary to ensure the ready availabil-
24 ity and efficient marketing of soybeans and soybean
25 products;

1 (5) there exist established State and national orga-
2 nizations conducting soybean promotion, research, and
3 consumer education programs that are invaluable to
4 the efforts of promoting the consumption of soybeans
5 and soybean products;

6 (6) the cooperative development, financing, and
7 implementation of a coordinated national program of
8 soybean promotion, research, and consumer information
9 are necessary to maintain and expand existing markets
10 and develop new markets for soybeans and soybean
11 products; and

12 (7) soybeans and soybean products move in inter-
13 state and foreign commerce, and soybeans and soybean
14 products that do not move in such channels of com-
15 merce directly burden or affect interstate commerce in
16 soybeans and soybean products.

17 (b) POLICY.—It, therefore, is declared to be the policy
18 of Congress that it is in the public interest to authorize the
19 establishment, through the exercise of the powers provided in
20 this Act, of an orderly procedure for developing, financing
21 (through adequate assessments on all soybeans produced
22 domestically), and carrying out an effective, continuous, and
23 coordinated program of promotion, research, and consumer
24 information designed to strengthen the soybean industry's po-
25 sition in the marketplace and to maintain and expand existing

1 domestic and foreign markets and uses for soybeans and soy-
2 bean products and develop new markets and uses for soy-
3 beans and soybean products.

4 (c) CONSTRUCTION.—Nothing in this Act may be con-
5 strued to provide for the control of production or otherwise
6 limit the right of individual producers to produce soybeans.

7 SEC. 3. DEFINITIONS.

8 As used in this Act:

9 (1) The term "Board" means the United Soybean
10 (b) board established under section 5(a) of this Act.

11 (2) The term "commerce" means interstate, for-
12 eign, or intrastate commerce.

13 (3) The term "Committee" means the Soybean
14 Program Coordinating Committee established under
15 section 5(d) of this Act.

16 (4) The term "consumer information" means in-
17 formation that will assist consumers and other persons
18 in making evaluations and decisions regarding the pur-
19 chasing, preparing, and use of soybeans or soybean
20 products.

21 (5) The term "Department" means the Depart-
22 ment of Agriculture.

23 (6) The term "first purchaser" means (A) any
24 person buying or otherwise acquiring after harvest soy-
25 beans from a producer, including any mortgagee,

1 pledgee, lienor, or other person having a lien against
2 the producer under a nonrecourse loan made after har-
3 vest against soybeans produced by the producer, and
4 (B) in any case in which soybeans are pledged or en-
5 cumbered under any Federal price support loan pro-
6 gram, the Commodity Credit Corporation.

7 (7) The term "industry information" means infor-
8 mation and programs that will lead to the development
9 of new markets, new marketing strategies, increased
10 efficiency, or activities to enhance the image of the
11 soybean industry.

12 (8) The term "market access activities" means ac-
13 tivities designed to identify and eliminate barriers to
14 trade or market access restrictions with regard to soy-
15 beans or soybean products. Such term shall not include
16 actions designed to influence legislation in the United
17 States.

18 (9) The term "marketing" means the sale or other
19 disposition of soybeans or soybean products in any
20 channel of commerce.

21 (10) The term "net market price" means the price
22 received by a producer for soybeans after adjustments
23 for any premium or discount based on grading or qual-
24 ity factors.

1 (11) The term "order" means an order issued
2 under section 4.

3 (12) The term "person" means any individual,
4 group of individuals, partnership, corporation, associa-
5 tion, cooperative, or any other entity.

6 (13) The term "producer" means any person en-
7 gaged in the growing of soybeans who owns, or who
8 shares the ownership and risk of loss of, such soy-
9 beans.

10 (14) The term "promotion" means any action, in-
11 cluding paid advertising, technical assistance, and trade
12 servicing activities, to enhance the image or desirabil-
13 ity of soybeans or soybean products in domestic and
14 foreign markets.

15 (15) The term "qualified State soybean board"
16 means a State soybean promotion entity that is author-
17 ized by State law or, if no such entity exists in a
18 State, a soybean grower-governed entity that is orga-
19 nized and operating within a State, that receives vol-
20 untary contributions and conducts soybean promotion,
21 research, consumer information, or industry information
22 programs, and that is recognized by the Board as the
23 soybean promotion entity within the State.

24 (16) The term "research" means any type of
25 study to advance the image, desirability, marketability,

1 production, product development, quality, or functional
2 or nutritional value of soybeans or soybean products.

3 (17) The term "Secretary" means the Secretary
4 of Agriculture.

5 (18) The term "soybean products" means prod-
6 ucts produced in whole or in part from soybeans or
7 soybean byproducts.

8 (19) The term "soybeans" means all varieties of
9 Glycine max or Glycine soya.

10 (20) The terms "State" and "United States" in-
11 clude the fifty States of the United States of America,
12 the District of Columbia, the Commonwealth of Puerto
13 Rico, and the Virgin Islands of the United States.

14 **SEC. 4. ISSUANCE OF ORDERS.**

15 (a) **IN GENERAL.**—To effectuate the declared
16 policy of section 2(b) of this Act, the Secretary, subject
17 to the procedures provided in subsection (b), shall issue
18 orders under this Act applicable to producers and first
19 purchasers of soybeans. Any such order shall be na-
20 tional in scope, and not more than one order shall be
21 in effect under this Act at any one time.

22 (b) **PROCEDURE.**—(1) The Secretary may propose
23 the issuance of an order under this Act, or an associa-
24 tion of soybean producers or any other person that will

1 be affected by this Act may request the issuance of,
2 and submit a proposal for, such an order.

3 (2) Not later than thirty days after the receipt of
4 a request and proposal by an interested person for an
5 order, or whenever the Secretary determines to pro-
6 pose an order, the Secretary shall publish the proposed
7 order and give due notice and opportunity for public
8 comment on the proposed order.

9 (3) After notice and opportunity for public com-
10 ment are given (as provided in paragraph (2)), the Sec-
11 retary shall issue the order, taking into consideration
12 the comments received and including in the order pro-
13 visions necessary to ensure that the order is in con-
14 formity with the requirements under this Act. Such
15 order shall be issued and become effective not later
16 than one hundred and twenty days following publica-
17 tion of the proposed order.

18 (c) AMENDMENTS.—The Secretary, from time to
19 time, may amend any order issued under this section.

20 **SEC. 5. REQUIRED TERMS IN ORDERS.**

21 Any order issued under this Act shall contain the fol-
22 lowing terms and conditions:

23 (a) **ESTABLISHMENT AND MEMBERSHIP OF THE**
24 **UNITED SOYBEAN BOARD.**—(1) The order shall pro-
25 vide for the establishment of, and appointment of mem-

1 bers to, a United Soybean Board to administer the
2 order. Members of the Board shall be soybean produc-
3 ers appointed by the Secretary, on a geographic basis,
4 from State units, as provided in paragraphs (2) and (3).
5 The cumulative number of seats on the Board shall be
6 the total of seats to which all the units are entitled.

7 (2) The Secretary shall establish seats on the
8 Board and appoint soybean producers to such seats
9 from nominations received, as follows:

10 (A) Except as provided in subparagraph (B),
11 each whole State shall be considered as a unit.

12 (B) A State in which average annual soybean
13 production is less than three million bushels shall
14 be grouped with other States into a combined
15 unit. To the extent practicable, each State with
16 average annual soybean production of less than
17 three million bushels shall be grouped with other
18 States with average annual soybean production of
19 less than three million bushels into a combined
20 unit, in a manner prescribed in the order. To the
21 extent practicable, each combined unit shall group
22 geographically contiguous States together. Each
23 combined unit shall have an average annual
24 production of soybeans of at least three million
25 bushels.

1 (C) Subject to subparagraph (E), each unit,
2 as established under subparagraph (A) or (B)—

3 (i) if its average annual soybean produc-
4 tion is less than fifteen million bushels, shall
5 be entitled to one seat on the Board;

6 (ii) if its average annual soybean pro-
7 duction is fifteen million bushels or more but
8 less than seventy million bushels, shall be
9 entitled to two seats on the Board;

10 (iii) if its average annual soybean pro-
11 duction is seventy million bushels or more
12 but less than two hundred million bushels,
13 shall be entitled to three seats on the Board;
14 and

15 (iv) if its average annual soybean pro-
16 duction is two hundred million bushels or
17 more, shall be entitled to four seats on the
18 Board.

19 (D) For purposes of subparagraphs (B) and
20 (C), the Secretary shall determine average annual
21 soybean production applicable to a crop year by
22 using the average of the five previous crops of
23 soybeans, excluding the crop in which production
24 was the highest and the crop in which production
25 was the lowest.

1 (E) At the end of each three-year period be-
2 ginning with the three-year period starting on the
3 effective date of the order, the Board may recom-
4 mend to the Secretary, to the extent it determines
5 appropriate, changes in the levels of production
6 used in subparagraphs (B) and (C) to determine
7 per-unit representation on the Board: *Provided,*
8 That a unit shall not lose, under this subpara-
9 graph, Board seats to which it is entitled at the
10 time the order is initially issued unless its average
11 annual production, as determined under subpara-
12 graph (D), declines below the levels required for
13 representation, as specific in subparagraph (B) or
14 (C).

15 (3)(A) For each unit established under paragraph
16 (2), nominations of persons to serve as members of the
17 Board shall be submitted to the Secretary. At least one
18 and five-tenths nominations shall be submitted for each
19 appointment to the Board to which the unit is entitled,
20 as determined under paragraph (2).

21 (B)(i)(I) The Secretary shall solicit nominations for
22 each appointment to the initially established Board to
23 which a State unit is entitled from the State soybean
24 board in the State that submits satisfactory evidence to
25 the Secretary that such board meets the criteria of sec-

1 tion 3(15) of this Act. If no such organization exists in
2 the unit, the Secretary shall solicit nominations for ap-
3 pointments in such manner as the Secretary determines
4 appropriate.

5 (II) The Secretary shall solicit nominations for
6 each appointment to the initially established Board to
7 which a combined unit is entitled in such manner as
8 the Secretary determines appropriate, taking into con-
9 sideration the recommendations of any State soybean
10 board operating in the unit that submits to the Secre-
11 tary satisfactory evidence that such board meets the
12 criteria of section 3(15) of this Act.

13 (ii)(I) Nominations for each subsequent appoint-
14 ment to the Board to which a State unit is entitled
15 shall be made by the qualified State soybean board in
16 the unit. If no such organization exists in the unit, the
17 Secretary shall solicit nominations for such appoint-
18 ment in such manner as the Secretary determines ap-
19 propriate.

20 (II) The Secretary shall solicit nominations for
21 each subsequent appointment to the Board to which a
22 combined unit is entitled in such manner as the Secre-
23 tary determines appropriate, taking into consideration
24 the recommendations of any qualified State soybean
25 board operating in the unit.

1 (4) Each appointment to the Board shall be for a
2 term of three years, except that appointments to the
3 initially established Board shall be proportionately for
4 one-year, two-year, and three-year terms. No person
5 may serve more than three three-year terms. Board
6 members shall serve without compensation, but shall
7 be reimbursed for their reasonable expenses incurred in
8 performing their duties as members of the Board.

9 (5) The order shall provide for at least one meet-
10 ing of the Board annually and specify the circum-
11 stances in which additional special meetings of the
12 Board may be held.

13 (b) POWERS AND DUTIES OF THE BOARD.—The order
14 shall define the powers and duties of the Board and shall
15 include the following powers and duties: (1) to administer the
16 order in accordance with its terms and provisions; (2) to
17 make regulations to effectuate the terms and provisions of the
18 order; (3) to elect members of the Board to serve on the
19 Committee; (4) to approve or disapprove budgets submitted
20 by the Committee; (5) to contract with appropriate persons to
21 implement plans or projects; (6) to receive, investigate, and
22 report to the Secretary complaints of violations of the order;
23 (7) to recommend to the Secretary amendments to the order;
24 and (8) to provide at least annually a report to producers
25 accounting for funds and describing programs implemented.

1 (c) BOARD VOTING PROCEDURES.—(1) The order shall
2 establish procedures for the conduct of voting by the Board,
3 as provided in this subsection.

4 (2) Each member of the Board shall be entitled, in any
5 vote conducted by the Board, to cast the number of votes
6 determined under the following rules:

7 (A) Each member shall be entitled to cast one
8 vote unless a rollcall vote is conducted. On a request
9 for a rollcall vote or on a rollcall vote required under
10 paragraph (3)(C), each member shall be entitled to cast
11 such additional votes as are assigned to the member
12 under subparagraph (B).

13 (B) The additional votes that each member is as-
14 signed for rollcall votes shall be computed as follows:

15 (i) Except as provided in clause (ii), each unit
16 shall be allotted one vote for each percent, or por-
17 tion of a percent, of the total amount of assess-
18 ments remitted to the Board that was remitted
19 from the unit, on the average, during each of the
20 three previous fiscal years of the Board.

21 (ii)(I) During the first fiscal year of the
22 Board, each unit shall be allotted one vote for
23 each percent, or portion of a percent, of the total
24 production of soybeans in the United States that
25 was produced in the unit, on the average, during

1 each of the three immediately preceding crop
2 years.

3 (II) The order shall provide appropriate ad-
4 justments of the procedure for the allotment of
5 votes under clause (i) to apply to allotments of
6 votes during the second and third fiscal years of
7 the Board.

8 (iii) A unit's total votes under clause (i) or (ii)
9 shall be divided equally among all the members
10 representing that unit. The procedures established
11 by the order shall provide for the equitable dispo-
12 sition of fractional votes assigned to a member
13 under such division of a unit's vote.

14 (3)(A) Except as provided in subparagraphs (B) and (C),
15 a motion shall carry if approved by a simple majority of mem-
16 bers of the Board casting votes.

17 (B) Any member of the Board may call for a rollcall
18 vote on any motion. Except as otherwise provided in sub-
19 paragraph (C) or in the bylaws adopted by the Board, when-
20 ever a rollcall vote is conducted, the motion shall carry only
21 if approved by a simple majority of all votes cast and a simple
22 majority of all units voting (with the vote of each unit deter-
23 mined by a simple majority of all votes cast by members in
24 that unit).

1 (C) A motion by a Board member to authorize any dis-
2 bursement of funds that would cause outlays under any ap-
3 proved budget to be exceeded shall be subject to a rollcall
4 vote and shall carry only if approved by two-thirds of all
5 eligible votes on the Board and by a simple majority of all
6 units on the Board (with the vote of each unit determined by
7 a simple majority of all eligible votes assigned to that unit).

8 (4) In any vote conducted by a committee of the Board,
9 each member of the committee shall have one vote.

i0 (5) A member may not cast votes by proxy.

11 (d) ESTABLISHMENT OF A SOYBEAN PROGRAM CO-
12 ORDINATING COMMITTEE AND MEMBERSHIP.—(1) The
13 order shall provide for the establishment of a Soybean Pro-
14 gram Coordinating Committee to assist in the administration
15 of the order, as provided in this subsection.

16 (2) The Committee shall be composed of the Chairman
17 of the Board, nine additional members of the Board elected
18 by the Board, and nine producers elected by the national,
19 nonprofit soybean producer-governed organization that con-
20 ducts activities on behalf of State soybean boards and that,
21 on the date of the enactment of this Act, conducts activities
22 to promote soybeans and soybean products as a cooperator
23 with the Foreign Agricultural Service of the Department. To
24 serve on the Committee, each producer elected by the nation-
25 al, nonprofit soybean producer-governed organization shall be

1 certified by the Secretary as a producer who is duly elected
2 by such organization as a representative to the Committee.

3 (3) Terms of appointment of the Committee shall be for
4 one year. No person may serve on the Committee for more
5 than six consecutive terms. Committee members shall serve
6 without compensation, but shall be reimbursed for their rea-
7 sonable expenses incurred in performing duties for the Com-
8 mittee.

9 (4) The Chairman of the Board shall serve as Chairman
10 of the Committee.

11 (e) POWERS AND DUTIES OF THE COMMITTEE.—The
12 order shall define the powers and duties of the Committee,
13 which shall include the following:

14 (1) The Committee shall develop and submit to
15 the Board, for approval, budgets on a fiscal year basis
16 of anticipated expenses and disbursements, including
17 probable costs of advertising and promotion, research,
18 consumer information, industry information, and market
19 access projects. The Board shall approve or disapprove
20 each such budget and, if approved, shall submit such
21 budget to the Secretary for the Secretary's approval.
22 Each such budget shall be approved or disapproved by
23 the Secretary within thirty days after the Secretary re-
24 ceives the budget.

1 (2) The Committee shall review or, on its own
2 initiative, develop plans or projects of advertising and
3 promotion, research, consumer information, industry in-
4 formation, and market access activities, to be paid for
5 with funds received by the Board. Each such plan or
6 project shall be presented to the Board for approval.

7 (f) ADMINISTRATION.—(1) The order shall provide that
8 the Board shall be responsible for all expenses of the Board
9 and Committee, and that the Board and Committee shall use
10 staff and facilities of established national, nonprofit soybean
11 producer-governed organizations to prevent duplication and
12 inefficient use of funds. Staff of such organizations shall not
13 receive compensation directly from the Board, but such orga-
14 nizations shall be reimbursed for the reasonable expenses of
15 their staffs, including salaries, incurred in performing staff
16 duties on behalf of the Board and Committee.

17 (2) The order shall provide that costs incurred by the
18 Board in administering the order (not including administra-
19 tive costs incurred by the Secretary) during any fiscal year
20 shall not exceed 5 percent of the projected level of revenues
21 to the Board for that fiscal year.

22 (g) CONTRACTS AND AGREEMENTS.—To ensure co-
23 ordination and efficient use of funds, the order shall provide
24 that the Board shall enter into contracts or agreements for
25 the implementation and carrying out of the activities author-

1 ized by this Act with established national, nonprofit soybean
2 producer-governed organizations (including the organization
3 electing representatives to the Committee under subsection
4 (d)(2)), and for the payment thereof with funds received by
5 the Board under the order. Any such contract or agreement
6 shall provide that (1) the contracting party shall develop and
7 submit to the Board a plan or project together with a budget
8 or budgets that shall show estimated costs to be incurred for
9 such plan or project; (2) the plan or project shall become
10 effective upon the approval of the Secretary, and (3) the con-
11 tracting party shall keep accurate records of all of its transac-
12 tions, account for funds received and expended, make period-
13 ic reports to the Board of activities conducted, and make such
14 other reports as the Board or the Secretary may require.

15 (h) BOOKS AND RECORDS.—The order shall require the
16 Board to (1) maintain such books and records (which shall be
17 available to the Secretary for inspection and audit) as the
18 Secretary may prescribe, (2) prepare and submit to the Sec-
19 retary, from time to time, such reports as the Secretary may
20 prescribe, and (3) account for the receipt and disbursement of
21 all funds entrusted to the Board.

22 (i) ASSESSMENTS.—(1)(A)(i) The order shall provide
23 that each first purchaser of soybeans from a producer shall
24 collect, in the manner prescribed by the order, an assessment
25 from the producer and remit the assessment to the Board.

1 The Board shall use qualified State soybean boards to collect
2 such assessments in States in which such boards operate.

3 (ii) The rate of assessment prescribed by the order shall
4 be one-half of 1 percent of the net market price of soybeans
5 sold by the producer to the first purchaser. The net market
6 price of soybeans pledged or encumbered as security for a
7 loan extended under any Federal price support loan program
8 shall be the principal amount of the loan extended.

9 (B) The order shall provide that any person processing
10 soybeans of that person's own production and marketing such
11 soybeans or soybean products made from such soybeans shall
12 remit to the Board or the qualified State soybean board, in
13 the manner prescribed by the order, an assessment estab-
14 lished at a rate equivalent to the rate provided for in subpara-
15 graph (A)(ii).

16 (2) The assessments shall be used for payment of the
17 expenses incurred in implementation and administration of
18 the order, the establishment of a reasonable reserve, and re-
19 imbursement to the Secretary of administrative costs incurred
20 by the Secretary after an order has been issued.

21 (3) A producer who can establish that such producer is
22 contributing to a qualified State soybean board shall receive
23 credit, in determining the assessment due to the Board from
24 such producer, for contributions to the qualified State soy-
25 bean board of up to one-quarter of 1 percent of the net

1 market price of soybeans or the equivalent thereof. There
2 shall be only one qualified State soybean board in each State.
3 A producer may receive a credit under this paragraph only if
4 the contribution is to the qualified State soybean board in the
5 State in which the soybeans are produced: *Provided, That*
6 the Board, with the approval of the Secretary, may authorize
7 exceptions to such State-of-origin rule as appropriate to
8 ensure effective coordination of collection procedures among
9 States.

10 (j) LOAN COLLATERAL.—The order shall establish a
11 procedure that authorizes the reimbursement of assessments
12 paid by producers when soybeans, pledged as collateral for a
13 loan issued under any Federal price support loan program,
14 are redeemed. The first purchaser of redeemed soybeans shall
15 be responsible for collecting all assessments due and remit-
16 ting them in the manner prescribed in the order.

17 (k) CERTAIN FOR CERTAIN COSTS TO STATES.—The
18 order shall provide that the Board may provide a credit to
19 each qualified State soybean board of an amount not to
20 exceed one-half of any fees paid to State governmental agen-
21 cies or first purchasers for collection of the assessments if the
22 payment of such fees by the qualified State soybean board is
23 required by State statute enacted prior to March 3, 1989:
24 *Provided, That* the Board may not provide a credit to any
25 qualified State soybean board of an amount that exceeds 2.5

1 percent of the amount of assessments collected and remitted
2 to the Board under subsection (i).

3 (l) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—

4 (1) The order shall contain provisions to ensure that, during
5 the period prior to conduct of the referendum provided for in
6 section 6(a), each qualified State soybean board receives an-
7 nually an amount of money equal to the average amount that
8 the State board collected from assessments during each of the
9 State board's fiscal years 1984 through 1988 (excluding the
10 year in which such collections were the highest and the year
11 in which such collections were the lowest), as determined by
12 the Secretary and subject to paragraph (3).

13 (2) The order shall provide, effective after the conduct of
14 the referendum provided for in section 6(a), subject to para-
15 graph (3), that the Board annually shall provide a credit to
16 each qualified State soybean board of an amount by which
17 (A) the amount equal to one cent times the average number
18 of bushels of soybeans produced in the State during each of
19 the preceding five years (excluding the year in which the
20 production is the highest and the year in which the produc-
21 tion is the lowest) exceeds (B) the total amount collected by
22 the qualified State soybean board from assessments on pro-
23 ducers minus the amount of assessments remitted to the
24 Board during such year under subsection (i).

1 (3) The total amount of credits under paragraph (1) or
2 (2) and assessments retained by the qualified State soybean
3 board for a year may not exceed the total amount of assess-
4 ments collected in that State under subsection (i) in that year.

5 (m) INVESTMENT OF FUNDS.—The order shall provide
6 that the Board, with the approval of the Secretary, may
7 invest assessment funds collected by the Board under the
8 order, pending their disbursement, only in obligations of the
9 United States or any agency thereof, in general obligations of
10 any State or any political subdivision thereof, in any interest-
11 bearing account or certificate of deposit of a bank that is a
12 member of the Federal Reserve System, or in obligations
13 fully guaranteed as to principal and interest by the United
14 States. Income from any such investment may be used for
15 any purpose for which the invested funds may be used.

16 (n) PROHIBITION.—The order shall prohibit any funds
17 received by the Board under the order from being used in any
18 manner for the purpose of influencing legislation in the
19 United States.

20 (o) BOOKS AND RECORDS.—(1)(A) The order shall re-
21 quire that each first purchaser of soybeans and any person
22 processing soybeans of that person's own production maintain
23 and make available for inspection such books and records as
24 may be required by the order and file reports at the time, in
25 the manner, and having the content prescribed by the order:

1 *Provided*, That the order shall exempt small farmers process-
2 ing soybeans of their own production who are not required to
3 pay assessments under the order from such recordkeeping
4 and reporting requirements.

5 (B) The Board shall define the term "small farmer", as
6 that term is used in subparagraph (A).

7 (2)(A) Information obtained under paragraph (1) shall be
8 made available to the Secretary as is appropriate to the ad-
9 ministration or enforcement of this Act, or any order or regu-
10 lation issued under this Act.

11 (B) In addition, the Secretary shall authorize the use
12 under this Act of information regarding first purchasers that
13 is accumulated under a law or regulation other than this Act
14 or regulations under this Act.

15 (3)(A) All information obtained under paragraph (1)
16 shall be kept confidential by all officers and employees of the
17 Department and agents of the Board, and only such informa-
18 tion so obtained as the Secretary deems relevant may be dis-
19 closed by them and then only in a suit or administrative hear-
20 ing brought at the request of the Secretary, or to which the
21 Secretary or any officer of the United States is a party, and
22 involving the order under which the information to be dis-
23 closed was obtained.

24 (B) Nothing in subparagraph (A) may be deemed to pro-
25 hibit (i) the issuance of general statements, based upon the

1 reports, of the number of persons subject to an order or sta-
2 tistical data collected therefrom, which statements do not
3 identify the information furnished by any person, or (ii) the
4 publication, by direction of the Secretary, of the name of any
5 person violating any order, together with a statement of the
6 particular provisions of the order violated by such person.

7 (4) No information obtained under the authority of this
8 Act may be made available to any agency or officer of the
9 Federal Government for any purpose other than the imple-
10 mentation of this Act and any investigatory or enforcement
11 action necessary for the implementation of this Act.

12 (5) Any person violating the provisions of this subsec-
13 tion, upon conviction, shall be subject to a fine of not more
14 than \$1,000, or to imprisonment for not more than one year,
15 or both, and if an agent of the Board or an officer or employ-
16 ee of the Department, shall be removed from office.

17 (p) INCIDENTAL TERMS AND CONDITIONS.—The order
18 shall provide terms and conditions, not inconsistent with the
19 provisions of this Act, as necessary to effectuate the provi-
20 sions of the order, including provisions for the assessment of
21 a penalty for each late payment of assessments under subsec-
22 tion (i).

23 **SEC. 6. REFERENDUMS.**

24 (a) INITIAL REFERENDUM.—Not earlier than eighteen
25 months or later than thirty-six months following issuance of

1 an order under section 4 of this Act, the Secretary shall con-
2 duct a referendum among producers who, during a represent-
3 ative period as determined by the Secretary, have been en-
4 gaged in the production of soybeans for the purpose of ascer-
5 taining whether the order then in effect shall be continued.
6 Such order shall be continued only if the Secretary deter-
7 mines that the order has been approved by not less than a
8 majority of the producers voting in the referendum. If con-
9 tinuation of the order is not approved by a majority of those
10 voting in the referendum, the Secretary shall terminate col-
11 lection of assessments under the order within six months
12 after the referendum and shall terminate the order in an or-
13 derly manner as soon as practicable.

14 (b) **ADDITIONAL REFERENDUMS.**—After the initial ref-
15 erendum, the Secretary, on request of a representative group
16 comprising 30 percent or more of the producers who, during
17 a representative period as determined by the Secretary, have
18 been engaged in the production of soybeans, may conduct a
19 referendum of all such producers to determine whether such
20 producers favor the termination or suspension of the order.
21 The Secretary shall suspend or terminate collection of assess-
22 ments under the order within six months after the Secretary
23 determines that suspension or termination of the order is fa-
24 vored by a majority of the producers voting in the referendum

1 and shall suspend or terminate the order in an orderly
2 manner as soon as practicable after such determination.

3 (c) PROCEDURES.—(1) The Secretary shall be reim-
4 bursed from assessments collected by the Board for any ex-
5 penses incurred by the Secretary in connection with the con-
6 duct of any referendum under this section, except for the sal-
7 aries of Government employees.

8 (2) Each referendum shall be conducted on a date estab-
9 lished by the Secretary, under a procedure whereby produc-
10 ers intending to vote in the referendum shall certify that they
11 were engaged in the production of soybeans during the repre-
12 sentative period and, on the same day, shall be provided an
13 opportunity to vote in the referendum.

14 (3) Referendums shall be conducted at county extension
15 offices and provision shall be made for absentee mail ballots
16 to be provided upon request.

17 SEC. 7. PETITION AND REVIEW.

18 (a) PETITION.—Any person subject to any order issued
19 under this Act may file with the Secretary a petition stating
20 that such order, any provision of such order, or any obliga-
21 tion imposed in connection with the order is not in accord-
22 ance with law and requesting a modification of the order or
23 an exemption from the order. The petitioner shall be given an
24 opportunity for a hearing on the petition, in accordance with
25 regulations issued by the Secretary. After such hearing, the

1 Secretary shall make a ruling on the petition, which shall be
2 final if in accordance with law.

3 (b) REVIEW.—The district courts of the United States
4 in any district in which such person is an inhabitant or carries
5 on business are hereby vested with jurisdiction to review such
6 ruling, if a complaint for that purpose is filed within twenty
7 days after the date of the entry of such ruling. Service of
8 process in such proceedings may be conducted on the Secre-
9 tary by delivering a copy of the complaint to the Secretary. If
10 the court determines that such ruling is not in accordance
11 with law, the court shall remand such proceedings to the
12 Secretary with directions either (1) to make such ruling as
13 the court shall determine to be in accordance with law, or (2)
14 to take such further proceedings as, in the opinion of the
15 court, the law requires.

16 SEC. 8. ENFORCEMENT.

17 (a)(1) Each district court of the United States shall have
18 jurisdiction specifically to enforce, and to prevent and re-
19 strain a person from violating, an order or regulation issued
20 under this Act.

21 (2) A civil action authorized to be brought under this
22 subsection shall be referred to the Attorney General for ap-
23 propriate action, except that the Secretary is not required to
24 refer to the Attorney General a violation of this Act if the
25 Secretary believes that the administration and enforcement of

1 this Act would be adequately served by providing a suitable
2 written notice or warning to a person who committed such
3 violation or by administrative action under subsection (b).

4 (b)(1)(A) A person who willfully violates an order or
5 regulation issued by the Secretary under this Act may be
6 assessed by the Secretary—

7 (i) a civil penalty of not more than \$1,000 for
8 each such violation; and

9 (ii) in the case of a willful failure to pay, collect,
10 or remit an assessment as required by the order, an ad-
11 ditional penalty equal to the amount of such assess-
12 ment.

13 (B) Each such violation shall be a separate offense.

14 (C) In addition to ~~or~~ in lieu of such civil penalty, the
15 Secretary may issue an order requiring such person to cease
16 and desist from violating such order or regulation.

17 (D) No order assessing a penalty or cease and desist
18 order may be issued unless the Secretary gives such person
19 notice and opportunity for a hearing on the record with re-
20 spect to such violation.

21 (E) An order issued under this paragraph by the Secre-
22 tary shall be final and conclusive unless such person files an
23 appeal from such order with the appropriate United States
24 court of appeals not later than thirty days after such person
25 receives notice of such order.

1 (2)(A) A person against whom an order is issued under
2 paragraph (1) may obtain review of such order in the court of
3 appeals of the United States for the circuit in which such
4 person resides or does business, or in the United States Court
5 of Appeals for the District of Columbia Circuit, by—

6 (i) filing a notice of appeal in such court not later
7 than thirty days after the date of such order; and

8 (ii) simultaneously sending a copy of such notice
9 by certified mail to the Secretary.

10 (B) The Secretary shall file promptly in such court a
11 certified copy of the record on which such violation was
12 found.

13 (C) A finding of the Secretary shall be set aside only if
14 the finding is found to be unsupported by substantial
15 evidence.

16 (3)(A) A person who fails to obey a valid cease and
17 desist order issued under paragraph (1) by the Secretary,
18 after an opportunity for a hearing, shall be subject to a civil
19 penalty assessed by the Secretary of not more than \$500 for
20 each offense.

21 (B) Each day during which such failure continues shall
22 be considered a separate violation of such order.

23 (4)(A) If a person fails to pay a valid civil penalty im-
24 posed under this subsection by the Secretary, the Secretary
25 shall refer the matter to the Attorney General for recovery of

1 the amount assessed in an appropriate district court of the
2 United States.

3 (B) In such action, the validity and appropriateness of
4 the order imposing such civil penalty shall not be subject to
5 review.

6 (C) The remedies provided in subsections (a) and (b)
7 shall be in addition to, and not exclusive of, other remedies
8 that may be available.

9 SEC. 9. INVESTIGATIONS: POWER TO SUBPOENA AND TAKE
10 OATHS AND AFFIRMATIONS; AID OF COURTS.

11 (a) INVESTIGATIONS.—The Secretary may make such
12 investigations as the Secretary deems necessary for the effec-
13 tive administration of this Act or to determine whether any
14 person subject to the provisions of this Act has engaged or is
15 about to engage in any act that constitutes or will constitute
16 a violation of any provision of this Act, or of any order or
17 regulation issued under this Act.

18 (b) POWER TO SUBPOENA AND TAKE OATHS AND AF-
19 FIRMATIONS.—For the purpose of such investigation, the
20 Secretary may administer oaths and affirmations, subpoena
21 witnesses, compel their attendance, take evidence, and re-
22 quire the production of any records that are relevant to the
23 inquiry. Such attendance of witnesses and the production of
24 any such records may be required from any place in the
25 United States.

1 (c) AID OF COURTS.—In case of contumacy by, or re-
2 fusal to obey a subpoena to, any person, the Secretary may
3 invoke the aid of any court of the United States within the
4 jurisdiction of which such investigation or proceeding is car-
5 ried on, or where such person resides or carries on business,
6 in requiring the attendance and testimony of witnesses and
7 the production of records. The court may issue an order re-
8 quiring such person to appear before the Secretary to
9 produce records or to give testimony regarding the matter
10 under investigation. Any failure to obey such order of the
11 court may be punished by such court as a contempt thereof.
12 Process in any such case may be served in the judicial district
13 in which such person is an inhabitant or wherever such
14 person may be found.

15 SEC. 10. ADMINISTRATIVE PROVISIONS.

16 (a) CONSTRUCTION.—Except as provided in paragraph
17 (2), nothing in this Act may be construed to preempt or su-
18 persede any other program relating to soybean promotion,
19 research, or consumer information organized and operated
20 under the laws of the United States or any State.

21 (2) In order to ensure the proper administration of this
22 Act, no State may conduct a referendum relating to the con-
23 tinuation or termination of a qualified State soybean board
24 during the period beginning on the date an order is issued
25 under section 4 and ending eighteen months after the referen-

1 dum on such order is conducted under section 6(a): *Provided,*
2 That such prohibition shall not be construed to apply to a
3 State referendum on approval of modifications to a State soy-
4 bean promotion program that do not involve termination of
5 the qualified State soybean board.

6 (b) AMENDMENTS TO ORDERS.—The provisions of this
7 Act applicable to orders shall be applicable to amendments to
8 orders.

9 SEC. 11. AUTHORIZATION.

10 There are hereby authorized to be appropriated annually
11 such funds as are necessary to carry out the provisions of this
12 Act. The funds so appropriated shall not be available for pay-
13 ment of the expenses or expenditures of the Board or the
14 Committee in administering any provision of any order issued
15 under this Act.

101ST CONGRESS
1ST SESSION

S. 962

To provide for the establishment of a coordinated program of promotion and research designed to strengthen the position of the pecan industry in the marketplace, to maintain and expand foreign and domestic markets and uses for improved and native pecans and pecan products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, JANUARY 3), 1989

Mr. FOWLER (for himself, Mr. BOREN, Mr. PRYOR, Mr. NUNN, Mr. LOTT, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide for the establishment of a coordinated program of promotion and research designed to strengthen the position of the pecan industry in the marketplace, to maintain and expand foreign and domestic markets and uses for improved and native pecans and pecan products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Pecan Promotion and
5 Research Act of 1989".

1 SEC. 2. DEFINITIONS.

2 Unless the context otherwise requires, as used in this
3 Act:

4 (1) BOARD.—The term “Board” means the Pecan
5 Marketing Board established in section 3(a).

6 (2) CONFLICT OF INTEREST.—The term “conflict
7 of interest” means a situation in which a member or
8 director has a direct or indirect interest or investment
9 in an entity, corporation, business, or a company deal-
10 ing directly or indirectly with the Board.

11 (3) DEPARTMENT.—The term “Department”
12 means the Department of Agriculture.

13 (4) DISTRICT.—The term “district” means—

14 (A) District 1, which consists of Arizona,
15 California, New Mexico, and West Texas (west of
16 Highway 277 from Del Rio to Stamford and
17 Highway 6 from Stamford to Quanah and the
18 Oklahoma line);

19 (B) District 2, which consists of Kansas, Mis-
20 souri, Oklahoma, and East Texas (east of High-
21 way 277 from Del Rio to Stamford and Highway
22 6 from Stamford to Quanah and the Oklahoma
23 line);

24 (C) District 3, which consists of Alabama,
25 Arkansas, Louisiana, Mississippi, and Tennessee;
26 and

1 (D) District 4, which consists of Florida,
2 Georgia, North Carolina, and South Carolina.

3 (5) **FIRST HANDLER.**—The term “first handler”
4 means the first person who buys or takes possession of
5 pecans from a grower. If a grower markets pecans or
6 pecan products directly, such grower shall be consid-
7 ered the first handler.

8 (6) **GROWER.**—The term “grower” means any
9 person engaged in a proprietary capacity in the produc-
10 tion and sale of pecans.

11 (7) **GROWER-SHELLER.**—The term “grower-shell-
12 er” means a person who—

13 (A) shells pecans, or has pecans shelled for
14 such person, in the continental United States; and

15 (B) grows 50 percent or more of the pecans
16 such person shells or has shelled for such person.

17 (8) **HANDLE.**—The term “handle” means receipt
18 of in-shell pecans by a sheller or handler, including
19 pecans produced by such sheller or handler.

20 (9) **HANDLER.**—The term “handler” means any
21 person who derives more than 50 percent of the pecan
22 income of such person (as determined by the Secretary)
23 from buying, accumulating, and selling pecans.

1 (10) INSHELL PECAN.—The term “inshell pecan”
2 means a pecan that has a shell that has not been
3 removed.

4 (11) MARKETING YEAR.—The term “marketing
5 year” means the 12 month period from October 1
6 through September 30 or such other period of the time
7 as may be recommended by the Board and established
8 by the Secretary.

9 (12) MEMBER.—The term “member” means a
10 member of the Board.

11 (13) PECAN.—The term “pecan” means the nut
12 of the pecan tree *carya illinoensis*.

13 (14) PERSON.—The term “person” means an in-
14 dividual, partnership, corporation, association, or any
15 other business unit.

16 (15) PRODUCTION AREA.—The term “production
17 area” means Alabama, Arizona, Arkansas, California,
18 Florida, Mississippi, Missouri, New Mexico, North
19 Carolina, Oklahoma, Georgia, Kansas, Louisiana,
20 South Carolina, Tennessee, and Texas.

21 (16) PROMOTION.—The term “promotion” means
22 any action taken by the Board, pursuant to this Act, to
23 present a favorable image of pecans to the public with
24 the express intent of improving the competitive position

1 of pecans in the marketplace and stimulating sales of
2 pecans, including paid advertising.

3 (17) SECRETARY.—The term “Secretary” means
4 the Secretary of Agriculture.

5 (18) SHELL.—The term “shell” means to remove
6 the shell from an inshell pecan.

7 (19) SHELLED PECAN.—The term “shelled
8 pecan” means a pecan kernel, or portion of a kernel,
9 after the pecan shell has been removed.

10 (20) SHELLER.—The term “sheller” means any
11 person who—

12 (A) shells pecans or has pecans shelled for
13 the account of such person; and

14 (B) purchases more than 50 percent of the
15 pecans such person shells or has shelled for such
16 account.

17 SEC. 3. PECAN MARKETING BOARD.

18 (a) ESTABLISHMENT.—There is established a Pecan
19 Marketing Board to carry out an effective, continuous, and
20 coordinated program of research, development, advertising,
21 and promotion to—

22 (1) strengthen the competitive position of pecans
23 in the marketplace;

24 (2) maintain and expand existing domestic and
25 foreign markets for pecans; and

1 (3) develop new or improved markets and prod-
2 ucts for pecans.

3 (b) SERVICE TO ENTIRE INDUSTRY.—The Board shall
4 carry out programs and projects that will provide maximum
5 benefit to the pecan industry in all parts of the United States
6 and only generically promote pecans.

7 SEC. 4. BOARD MEMBERSHIP.

8 (a) IN GENERAL.—The Board shall consist of—

9 (1) eight members who are growers;

10 (2) four members who are shellers;

11 (3) one member who is a handler;

12 (4) one member who is an importer of pecans into
13 the United States, appointed by the Board;

14 (5) one member representing the general public,
15 appointed by the Board; and

16 (6) at the option of the Board, one non-voting
17 member representing a country other than the United
18 States that produces pecans, appointed by the Board.

19 (b) REPRESENTATION OF MEMBERS.—

20 (1) GROWER REPRESENTATIVES.—Of the grow-
21 ers referred to in subsection (a)(1)—

22 (A) two members shall be from District 1 (as
23 described in section 2(4)(A));

24 (B) two members shall be from District 2 (as
25 described in section 2(4)(B));

1 (C) two members shall be from District 3 (as
2 described in section 2(4)(C)); and

3 (D) two members shall be from District 4 (as
4 described in section 2(4)(D)).

5 (2) **SHELLER REPRESENTATIVES.**—Of the shell-
6 ers referred to in subsection (a)(2)—

7 (A) two members shall be from east of the
8 Mississippi River; and

9 (B) two members shall be from west of the
10 Mississippi River.

11 (3) **HANDLER REPRESENTATIVE.**—The handler
12 representative on the Board referred to in subsection
13 (a)(3) shall be from the production area.

14 (4) **IMPORTER REPRESENTATIVE.**—The importer
15 representative on the Board referred to in subsection
16 (a)(4) shall be an individual who imports pecans to the
17 United States.

18 (5) **PUBLIC REPRESENTATIVE.**—The public rep-
19 resentative on the Board referred to in subsection (a)(5)
20 shall not be a grower, sheller, or handler.

21 (c) **ALTERNATE FOR EACH MEMBER.**—Each member
22 on the Board shall have an alternate with the same qualifica-
23 tions as the member such alternate would replace.

24 (d) **LIMITATION ON STATE RESIDENCE.**—There shall
25 be no more than one member from each State in each dis-

1 trict, with the exception of District 4 (as described in section
2 2(4)(D)).

3 (e) **MODIFYING BOARD MEMBERSHIP.**—In accordance
4 with regulations approved by the Secretary, at least once
5 each 3 years and not more than once each 2 years, the Board
6 shall—

7 (1) review the geographic distribution of pecan
8 production throughout the United States and the
9 volume of imported pecans and pecan products; and

10 (2) if warranted, reapportion a district or modify
11 the number of Board members from a district, or both,
12 in order to reflect the geographic distribution of pecan
13 production and the quantity of imported pecan or pecan
14 products.

15 (f) **SELECTION PROCESS FOR MEMBERS.**—

16 (1) **NOMINATING MEETING.**—The Board shall
17 hold or cause to be held, and shall give reasonable
18 publicity to, a nominating meeting of persons interested
19 in being elected to Board membership.

20 (2) **ELIGIBILITY.**—Any person referred to in sub-
21 section (a) shall be eligible to vote at the nomination
22 meetings for members who represent that class of
23 members.

24 (3) **SELECTION OF MEMBERS.**—Each person re-
25 ferred to in paragraph (2) shall have 1 vote. The candi-

1 dates receiving the largest number of votes cast for
2 Board positions for each class of members shall be the
3 nominees for such positions.

4 (4) CERTIFICATION.—The nominations made
5 under paragraph (3) shall be certified by the Board to
6 the Secretary no later than May 1 preceding the com-
7 mencement of the term of office for the Board member-
8 ship as established in section 8.

9 (5) APPOINTMENT.—The Secretary shall appoint
10 the Board members certified under paragraph (4).

11 (6) INITIAL BOARD.—For the purpose of obtain-
12 ing nominations for the initial Board, the Secretary
13 shall perform the functions of the Board under this
14 subsection.

15 SEC. 5. TERMS OF OFFICE.

16 (a) IN GENERAL.—The members of the Board shall
17 serve for terms of 3 years, except that the members appoint-
18 ed to the initial Board shall serve, proportionately, for terms
19 of 1, 2, and 3 years, as determined by the Secretary.

20 (b) TERMINATION OF TERMS.—Each member shall
21 continue to serve until a successor is confirmed by the Secre-
22 tary.

23 (c) LIMITATION ON TERMS.—No member shall serve
24 more than two consecutive 3-year terms as a member.

25 (d) VACANCIES.—

1 (1) **SUBMITTING NOMINATIONS.**—To fill any va-
2 cancy created by the death, removal, resignation, or
3 disqualification of any member of the Board, the Secre-
4 tary shall request that nominations for a successor for
5 such vacancy be submitted by the Board.

6 (2) **LACK OF NOMINATIONS.**—If no eligible nomi-
7 nation is submitted under paragraph (1), the Secretary
8 shall determine the manner of submission of nomina-
9 tions for the vacancy.

10 **SEC. 6. COMPENSATION.**

11 A member of the Board shall serve without compensa-
12 tion, but shall be reimbursed for necessary and reasonable
13 expenses incurred in the performance of duties for the Board.

14 **SEC. 7. MEETINGS OF BOARD.**

15 (a) **IN GENERAL.**—At a properly convened meeting of
16 the Board, a majority of the members shall constitute a
17 quorum. Any action of the Board at such a meeting shall
18 require the concurring votes of at least a majority of members
19 present at such meeting.

20 (b) **NOTICE OF MEETINGS.**—The Board shall establish
21 rules concerning timely notice of meetings.

22 (c) **EMERGENCY MEETINGS.**—

23 (1) **IN GENERAL.**—When in the opinion of the
24 chairperson of the Board emergency action is consid-
25 ered necessary, in lieu of a meeting convened in ac-

1 cordance with subsection (a), the Board may take
2 action with a concurrence of votes of a majority of
3 members by mail, telephone, or telegraph.

4 (2) NOTIFICATION.—If emergency action is taken
5 under paragraph (1), all members must be notified and
6 provided the opportunity to vote.

7 (3) ACTION BY TELEPHONE.—Any emergency
8 action by telephone permitted under paragraph (1) shall
9 be confirmed promptly in writing to the Board.

10 (4) FORCE OF ACTION.—Any emergency action
11 taken under paragraph (1) shall have the same force as
12 though such action had been taken at a regular meet-
13 ing of the Board.

14 SEC. 8. DUTIES OF THE BOARD.

15 The Board shall—

16 (1) meet, organize, and select from among mem-
17 bers of the Board a chairperson and such other officers
18 as may be necessary to select committees and subcom-
19 mittees of Board members;

20 (2) adopt such rules for conducting business as the
21 Board considers appropriate;

22 (3) establish working committees of persons other
23 than Board members;

1 (4) employ such persons as the Board considers
2 necessary and determine the compensation and define
3 the duties of such persons;

4 (5) protect the handling of Board funds through fi-
5 delity bonds;

6 (6) prepare and submit for the approval of the
7 Secretary, prior to the beginning of each fiscal period,
8 a recommended rate of assessment under section 10(d),
9 and a fiscal period budget of the anticipated expenses
10 in the administration of this Act, including the probable
11 costs of all programs and projects;

12 (7) develop programs and projects that must be
13 approved by the Secretary;

14 (8) enter into contracts or agreements, that must
15 be approved by the Secretary before becoming effec-
16 tive, to develop and carry out programs or projects of
17 research and development;

18 (9) carry out research and development, advertis-
19 ing or promotion, and pay the costs of such projects
20 with funds collected pursuant to section 10;

21 (10) keep minutes, books, and records that reflect
22 all of the acts and transactions of the Board, and
23 promptly report minutes of each Board meeting to the
24 Secretary;

1 (11) investigate violations of this Act, and report
2 the results of such investigations to the Secretary for
3 appropriate enforcement action;

4 (12) furnish the Secretary with such information
5 as the Secretary may request;

6 (13) appoint and convene, from time to time,
7 working committees comprised of producers, handlers,
8 shellers, and the public to assist in the development of
9 research and promotion programs for pecans;

10 (14) develop and recommend such rules and regu-
11 lations to the Secretary for approval as may be neces-
12 sary for the development and execution of programs or
13 projects to carry out this Act;

14 (15) provide that, for any State with an existing
15 or future marketing order, plan, or agreement with re-
16 spect to pecans, an assessment in excess of the assess-
17 ment required under section 10 shall be collected and
18 returned to such State; and

19 (16) refrain from engaging in any action that
20 would be a conflict of interest.

21 SEC. 9. EXPENSES.

22 (a) BUDGET.—Prior to the beginning of each fiscal year,
23 or as may be necessary after such fiscal year, the Board shall
24 prepare and recommend to the Secretary a budget on a fiscal
25 year basis of anticipated expenses and disbursements in the

1 administration of this Act, including probable costs of re-
2 search, development, advertising, and promotion.

3 (b) INCURRING EXPENSES.—The Board may incur such
4 expenses for research, development, advertising, or promo-
5 tion of pecans, and other expenses for the administration,
6 maintenance, and functioning of the Board as may be author-
7 ized by the Secretary, including any administrative costs in-
8 curred by the Department in conducting a referendum.

9 (c) PAYING EXPENSES.—The funds to cover the ex-
10 penses referred to in subsection (b) shall be paid from assess-
11 ments collected under section 10 or funds borrowed pursuant
12 to subsection (d).

13 (d) AUTHORITY TO BORROW.—In order to meet the
14 expenses referred to in subsection (b), the Board shall have
15 the authority to borrow.

16 (e) LIMITATION ON SPENDING.—Effective on the date
17 that is 3 years after the date of the establishment of the
18 Board, the Board shall not spend in excess of 20 percent of
19 the assessments collected under section 10 for administration
20 of the Board.

21 SEC. 10. ASSESSMENTS.

22 (a) IN GENERAL.—During the effective period of this
23 Act, assessments shall be—

24 (1) levied on all pecans produced in, or imported
25 into, the United States; and

1 (2) deducted from the payment made to a grower
2 for all pecans sold to a first handler.

3 (b) LIMITATION ON ASSESSMENTS.—No more than one
4 assessment, as referred to in subsection (a), may be assessed
5 on a handler for any sale of pecans.

6 (c) REMITTING ASSESSMENT.—

7 (1) IN GENERAL.—A first handler and a grower-
8 sheller who markets pecans, produced by the grower in
9 the form of pecans or pecan products, to consumers
10 either directly, through retail or wholesale outlets, or
11 for export purposes, shall remit the assessment re-
12 quired under subsection (a) to the Board.

13 (2) TIMES TO REMIT ASSESSMENT.—

14 (A) FIRST HANDLERS.—Each first handler
15 who is responsible for the remittance of an assess-
16 ment under paragraph (1) shall remit such assess-
17 ment to the Board no later than the last day of
18 the month following the month that the pecans
19 being assessed were purchased or marketed.

20 (B) GROWER-SHELLERS.—Each grower-
21 sheller who is responsible for the remittance of an
22 assessment under paragraph (1) shall remit such
23 assessment to the Board, to the extent practica-
24 ble, in payments of one-third of the total of such
25 assessment due to the Board on March 31, June

1 30, and September 30 during the fiscal year that
2 the pecans being assessed were produced and har-
3 vested.

4 (3) IMPORTERS.—Importers of pecans into the
5 United States shall remit the assessment to the Board
6 through the United States Customs Service, or in such
7 other manner as may be established by regulations
8 issued by the Board and approved by the Secretary.

9 (d) ASSESSMENT RATE.—

10 (1) IN GENERAL.—Assessment rates shall be fixed
11 by the Board and approved by the Secretary, except
12 that the maximum assessment shall not exceed—

13 (A) one-half cent per pound in-shell, or the
14 equivalent, during the 2-year period beginning on
15 date of enactment of this Act; and

16 (B) 2 cents per pound in-shell or the equiva-
17 lent after the period referred to in subparagraph
18 (A).

19 (2) ADJUSTING RATE FOR OUT-OF-SHELL
20 PECANS.—The in-shell rate of assessment established
21 under paragraph (1) shall be established for shelled
22 pecans or pecan equivalents at twice such inshell rate.

23 (e) LATE CHARGE.—

24 (1) IN GENERAL.—There shall be a late payment
25 charge imposed on any person who fails to remit to the

1 Board the total amount that such person is liable for
2 on or before the due date established by the Board
3 under subsection (c)(2).

4 (2) AMOUNT OF CHARGE.—The amount of the
5 late payment charge imposed under paragraph (1) shall
6 be prescribed by the Board and subject to approval by
7 the Secretary.

8 (f) INTEREST CHARGE.—

9 (1) IN GENERAL.—There shall be imposed on any
10 person subject to a late payment charge under subsec-
11 tion (e), an interest charge on the outstanding portion
12 of any amount for which the handler is liable.

13 (2) RATE OF INTEREST.—The rate of the interest
14 charge imposed under paragraph (1) shall be prescribed
15 by the Board subject to approval by the Secretary.

16 SEC. 11. RECORDS.

17 (a) MAINTENANCE OF RECORDS.—

18 (1) IN GENERAL.—Each handler or first handler
19 subject to this Act shall—

20 (A) maintain and submit to the Board any
21 reports considered necessary by the Secretary to
22 ensure compliance with this Act; and

23 (B) make available during normal business
24 hours, for inspection by employees of the Board or
25 Secretary, such books and records as are neces-

1 sary to carry out this Act, including such records
2 as are necessary to verify any required reports.

3 (2) TIME REQUIREMENT.—The records required
4 under paragraph (1) shall be maintained for 2 years
5 beyond the fiscal period of the applicability of such
6 records.

7 (b) CONFIDENTIALITY.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), all information obtained from books, records,
10 or reports required to be maintained under subsection
11 (a) shall be kept confidential, and shall not be disclosed
12 to the public by any person.

13 (2) DISCLOSURE.—Information referred to in
14 paragraph (1) may be disclosed to the public only if—

15 (A) the Secretary considers the information
16 relevant;

17 (B) the information is revealed in a suit or
18 administrative hearing brought at the direction or
19 on the request of the Secretary or to which the
20 Secretary or any officer of the Department is a
21 party; and

22 (C) the information relates to this Act.

23 (3) WILLFUL MISCONDUCT.—Any disclosure of
24 confidential information in violation of paragraph (1) by
25 any Board member or employee of the Board, except

1 as required by other law or allowed under paragraph
2 (2), shall be considered a violation of this Act.

3 SEC. 12. ENFORCEMENT.

4 Any person who violates this Act, or fails to collect,
5 pay, or remit any assessment may be fined a civil penalty
6 of not less than \$1,000 and not more than \$10,000 per
7 violation.

8 SEC. 13. APPROVAL BY THE SECRETARY.

9 All fiscal matters, programs, projects, rules or regula-
10 tions, reports, or other substantive actions proposed and pre-
11 pared by the Board shall be submitted to the Secretary for
12 approval.

13 SEC. 14. TERMINATION OF PLAN.

14 (a) RIGHT TO TERMINATE.—If the Secretary finds that
15 the program established by this Act or any provision of such
16 program obstructs or does not tend to effectuate the purpose
17 of this Act, the Secretary shall terminate or suspend the op-
18 eration of such plan or provision.

19 (b) REFERENDUM.—

20 (1) CONDITIONS FOR CONDUCTING REFEREN-
21 DUM.—To determine if pecan producers favor termina-
22 tion or suspension of the program established by this
23 Act, the Secretary—

24 (A) shall conduct a referendum not later than
25 24 months after the effective date of this Act;

1 (B) may conduct a referendum at any time;

2 (C) shall conduct a referendum, on the re-
3 quest of the Board or of 10 percent or more of
4 the growers.

5 (2) VOTING PROCEDURE.—

6 (A) ADVANCE VOTING.—A pecan producer
7 who chooses register to vote in advance of a ref-
8 erendum referred to in paragraph (1) shall vote in
9 person at the appropriate local office of the Agri-
10 cultural Stabilization and Conservation Service for
11 such pecan producer, after receiving notice from
12 such office concerning such referendum under sub-
13 paragraph (B).

14 (B) NOTICE.—Each Agricultural Stabiliza-
15 tion and Conservation Service office shall notify
16 all pecan producers in the area of such office at
17 least 30 days prior to a referendum referred to in
18 paragraph (1). Such notice shall explain the pro-
19 cedure established in subparagraph (A).

20 (C) GENERAL PROCEDURE.—The referen-
21 dum referred to in paragraph (1) shall be decided
22 either—

23 (i) by a two-thirds majority of pecan
24 producers; or

25 (ii) by—

1 (I) the pecan producers of not less
2 than two-thirds of the pecans produced
3 during the representative period by pro-
4 ducers voting in such referendum; and

5 (II) not less than a majority of the
6 producers voting in such referendum.

7 **SEC. 15. PERSONAL LIABILITY.**

8 No member of the Board or alternate, or any employee
9 or agent of the Board, shall be held personally responsible
10 either individually or jointly with others, to any handler or
11 any other person for errors in judgment, mistakes, or other
12 acts of commission or omission, in the capacity of such
13 member, alternate, employee, or agent, except for an act of
14 dishonesty, fraud, willful misconduct, gross negligence, or
15 disclosure of confidential information.

PREPARED STATEMENT OF KIRK W. LEIGHTON, PRESIDENT, CAMSCO PRODUCE CO.

Mr. Chairman and members of the subcommittee, we very much appreciate the opportunity to submit testimony concerning S. 918, legislation which would authorize a Mushroom Marketing Order.

Camsco Produce Company is a subsidiary of Campbell Soup Company. While Campbell has a rather long history of growing mushrooms for use as an ingredient in our canned products, we entered into the fresh mushroom business only 10 years ago. Camsco's involvement in *fresh* mushrooms came as the Company sensed the growing consumer interest in this product. That interest is evidenced by the fact that fresh mushroom sales have doubled over the past decade from 230 million to 469 million pounds in 1988. In our own case, we have expanded our annual fresh market sales from 0 to 70 million pounds during the past 10 years. We believe Camsco is currently the largest U.S. grower of fresh mushrooms, with an estimated 15 percent share of the fresh market.

We wish we could be testifying today in favor of this legislation. However, we are unable to do so. We oppose this bill for several reasons including lack of need for the legislation, its undefined programs, the high level of funding and the inequitable voting and assessment method.

We would point out to the subcommittee that the legislation is not the product of a united mushroom industry. Indeed, its opponents include the first and fourth largest mushroom growers, who never even saw the bill until the time of its introduction. We are aware that some smaller growers also oppose the bill and believe that others will join their ranks when they are made aware of it and they weigh the significant costs of the mandatory assessment against the uncertain benefits of the program which their money would fund. The order would assess \$.01 per pound during the second year. This would raise approximately \$4.0 million. The law would allow this to rise to as much as \$.02 per pound.

We have been unable to find a clear, much less a convincing, description of the program on which the funds collected would be spent. Much of the promotional material for the order has talk of marketing programs like those for beef and pork. However, these funds would not be sufficient for such media oriented programs aimed at consumers. There has also been talk of retailer-oriented marketing. Our experience is that without also advertising/promotion to the consumer, this retailer support is not cost effective.

Proponents of the program have circulated information alleging the great success of the California Strawberry Marketing Order. They point out that strawberry production grew by 18 percent and crop value 23 percent from 1984 to 1988. They fail to point out however, that the fresh strawberry crop value has flattened in the past 3 years. Fresh strawberry sales growth (16 percent between 1984 and 1988), even with the benefits of its marketing order, has not grown as fast as that of fresh mushrooms, which grew by 21 percent over the same period. We fear that the desire for this order is being driven by advertising people who benefit no matter what the results.

Even if such a program is effective, there is normally a several year lag between when the money is spent and when the benefits accrue. We fear that many advocates of this bill have not been warned that their funds will at best not achieve results for several years after their expenditure.

If a marketing program is envisioned, the bill does not address the unique regional nature of mushroom growing in this country. Mushrooms have a shorter shelf life than many other produce items. This means that mushroom growers must be located within several hundred miles of their markets. The result has been a group of regional mushroom markets rather than one national market. The largest of these markets centers in Pennsylvania where 45 percent of U.S. mushrooms are grown. Another market is in California, with 15 percent of U.S. mushroom production. The situation facing growers in these areas is quite different than in other parts of the country where a single grower is, more often than not, the only producer within hundreds of miles.

The bill itself makes no attempt to deal with these very significant differences. We cannot conceive of a marketing program which would equitably benefit mushroom growers in these different circumstances. The makeup of the Council would doubtless be skewed toward the regions of heavy mushroom concentration with the predictable result that growers from other regions would be compelled to subsidize marketing activities in these concentrated regions.

If a marketing program is not envisioned, then the amounts which would be collected are far greater than necessary for other industry objectives. Whatever the case, we are being asked to simply support collection of funds which someone will

decide to spend somehow. At Camsco we feel we have much better uses for those funds, which we would direct into the continued improvement of fresh mushroom quality and efficiency of production.

The doubling of fresh mushroom sales over the last decade further raises the question of why a marketing order is even necessary. Certainly this situation is far different than the declines and distressed conditions which generated legislation establishing promotion programs of products such as pork, beef, and many other commodities the subcommittee has reviewed.

The bill establishes an inequitable method of voting and assessing. It would allow a simple majority of growers (who could pay a small minority of the assessments) to impose an assessment which would rise rapidly to at least \$.01 and as high as \$.02 per pound of mushrooms. This would cost our Company \$750,000 annually at the \$.01 level and \$1.5 million at the \$.02 level. All this, I would point out again, would go to an undefined program. We are being asked to buy a "pig in a poke". We would much rather spend that money in building new facilities like the ones we have established in Dublin, Georgia and Hillsboro, Texas. These two new farms and each of our other six farms have provided substantially increased employment and purchases of goods and services in their communities over the past 8 years.

And, to make matters worse, the method of terminating the marketing order is even less fair, requiring votes by two-thirds of the growers to end the program.

Growers such as Camsco who are currently investing heavily in marketing, research and quality enhancement would be forced under this bill to pay not only for their own efforts, but also for those of the entire industry. At the risk of sounding redundant we are convinced that we can spend this money better.

Consumers ultimately will pay higher prices because of this order. In many regions, the challenge is not creating demand for high quality mushrooms. Instead the challenge is consistently producing those mushrooms. This program would simply add an additional cost to those producers who are already working at full speed to try and keep up with that demand. It would divert funds which could be used otherwise for quality improvement and expansion of technical and facility enhancements.

Mr. Chairman, we recognize that there is indeed a need for greater cooperation within the mushroom industry. Our firm has been very proactive in advancing information on food safety concerns and related issues. Introduction of this measure has resulted in meetings and conversations which could further efforts within the industry to unite on the problems that face us. We urge that the subcommittee not move forward on mushroom marketing order legislation until consensus can be achieved within the industry and the legislation is amended to reflect that consensus. We pledge our best efforts to help achieve that consensus and hope that others who have supported this bill will see the long term benefits of an industry which competes hard in the marketplace but also cooperates on issues of mutual concern to us all.

Thank you again for the opportunity to present these views.

